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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

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USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
FPCA—National Fire Prevention and Control Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency

DSA—Defense Supply Agency
Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDO—Human Development Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SRS—Social and Rehabilitation Service
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
1	$1.65
2 [Reserved]	
4	3.25
5	4.70
7 Parts:	
0-45	5.30
46-51	4.20
52	5.20
53-209	5.80
210-699	6.10
700-749	4.10
750-899	1.80
900-944	4.25
945-980	2.40
981-999	2.50
1000-1059	4.25
1060-1119	4.40
1120-1199	3.20
1200-1499	4.20
1500-end	7.25
8	2.60
10 Parts:	
0-199	4.40
200-end	4.60
12 Parts:	
1-299	7.40
300-end	7.30
13	4.20
14 Parts:	
60-199	5.10
1200-end	2.20
15	5.35
16 Parts:	
0-149	5.50
150-999	4.25
1000-end	3.00

CFR Unit (Rev. as of April 1, 1976):

Title	Price
17	6.00
18 Parts:	
1-149	4.85
150-end	4.10
19	5.65
20 Parts:	
1-399	2.45
400-end	7.50
21 Parts:	
1-9	2.60
10-199	5.20
200-299	2.10
300-499	5.95
500-599	3.75
600-1299	2.75
1300-end	1.90
22	4.20
23	4.55
24 Parts:	
0-499	6.65
500-end	6.90
25	5.25
26 Parts:	
1 (§§ 1.0-1.169)	5.95
1 (§§ 1.170-1.300)	3.90
1 (§§ 1.301-1.400)	3.30
1 (§§ 1.401 to 1.500)	3.55
1 (§§ 1.501-1.640)	4.05
1 (§§ 1.641-1.850)	4.45
1 (§§ 1.851-1.1200)	6.05
1 (§§ 1.1201 to end)	6.95
2-29	4.05
30-39	3.45
40-299	5.40
300-499	3.60
600-end	2.20
27	7.70

CFR Unit (Rev. as of July 1, 1976):

28	$3.10
29 Parts:	
0-499	7.30
500-1899	5.50
1900-1919	7.55
1920-end	4.05
30	4.80
31	5.65
32 Parts:	
1-39 (V.I) (Rev. 11/1/75)	5.80
(V.II) (Rev. 11/1/75)	7.40
(V.III) (Rev. 11/1/75)	5.10
40-399	6.50
400-589	5.20
590-699	3.10
700-799	7.85
800-999	6.05
1000-1399	2.20
1400-1599	3.65
1600-end	1.95
32A	2.90
33 Parts:	
1-199	6.20
200-end	5.85
34	1.00
35	3.50
36	3.40
37	2.20
38	7.20
39	2.75
40 Parts:	
0-49	3.15
50-59	6.80
60-99	5.70
100-399	4.50
400-end	6.70
41 Chapters:	
1-2	5.70
3-6	5.90
7	1.85
8	1.80
9	4.35
10-17	4.15
19-100	3.55
101-end	6.80
CFR Index	3.20

CFR Unit (Rev. as of Oct. 1, 1976):

42	5.95
43 Parts:	
1-999	3.10
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	3.45
100-199	10.00
200-499	3.15
500-end	6.40
46 Parts:	
1-29	2.15
30-40	2.20
41-69	4.00
70-89	2.10
90-109	1.95
110-139	1.90
140-165	4.00
166-199	2.65
200-end	7.25
47 Parts:	
0-19	3.80
20-69	5.00
70-79	4.90
80-end	6.20
48 [Reserved]	
49 Parts:	
1-99	2.05
200-999	7.55
1000-1199	3.95
1200-1299	7.40
1300-end	3.60
50	4.20

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS, AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 959—ONIONS GROWN IN SOUTH TEXAS

Amended Rate of Assessment for the Fiscal Period Ending July 31, 1977

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation increases the rate of assessment under a marketing order on onions grown in South Texas. Poor growing conditions have reduced the potential onion crop. An increased assessment rate is necessary to provide the necessary funds for budgeted committee expenses.

DATES: Effective for fiscal period ending July 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 143 and Order No. 959, both as amended, regulate the handling of onions grown in designated counties in South Texas. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Notice was published in the April 7, 1977, FEDERAL REGISTER (42 FR 18404) regarding the proposal. It afforded interested persons an opportunity to submit written comments not later than April 25, 1977. None was received.

The production area in the southern part of Texas has experienced cool, wet weather during much of the growing season. Current estimates indicate production may be down 49 percent. This will reduce income at the current rate of assessment. Therefore, at a meeting at Larado, Texas, on March 16, 1977, the committee unanimously recommended that the rate of assessment be increased from 1½ to 2½ cents per 50-pound bag or equivalent quantity of onions. The income generated by this increased assessment will be used for expenses set forth in the current budget.

Findings. After consideration of all relevant matters, including the proposal in the notice, it is found that the following amended rate of assessment should be approved. It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular period shall apply to all assessable onions from the beginning of such period.

The amendment is as follows:

Paragraph (b) of § 959.217 (42 FR 2308) is amended to read as follows:

§ 959.217 Expenses and rate of assessment.

* * * * *

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be two and one-half cents ($0.025) per 50-pound container of onions, or equivalent quantity, handled by him as the first handler thereof during the fiscal period.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: April 26, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-12462 Filed 4-29-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, 1976 Crop Wheat Supplement, Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 Crop Wheat Loan and Purchase Program

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 4397 in the FEDERAL REGISTER of Tuesday, January 25, 1977 (FR Doc.77-2172).

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION, CONTACT:

Merle Strawderman, ASCS (202-447-9223).

The following corrections are made to § 1421.488(a):

1. On page 4397, right column, under the heading "Idaho" the entry that reads "Nez Perce $2.13" is changed to read "Nez Perce $2.31".

2. On page 4399, right column, under the heading "North Dakota" the entry that reads "Pembina $2.17" is changed to read "Pembina $2.27".

3. On page 4400, left column, under the heading "Oregon" the entry that reads "Lincoln $2.27" is changed to read "Lane $2.35" and the entry that reads "Lane $2.35" is changed to read "Lincoln $2.27".

Signed at Washington, D.C., on April 8, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-12458 Filed 4-29-77;8:45 am]

PART 1430—DAIRY PRODUCTS

Subpart—Price Support Program for Milk 1977-1978 Price Support

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to announce an increase to $9.00 per hundredweight in the support price for manufacturing milk for the 1977-78 marketing year. The need for this rule is to satisfy the statutory requirements for price support for milk of the Agricultural Act of 1949, as amended. The statute requires that milk be supported at a level between 75 and 90 percent of parity to assure an adequate supply of milk, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

EFFECTIVE DATES: April 1, 1977, through March 31, 1978.

ADDRESSES: Commodity Operations Division, ASCS, USDA, 5768 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Donald L. Gillis, Director, Commodity Operations Division, ASCS, USDA, 5768 South Building, P.O. Box 2415, Washington, D.C. 20013, 202-447-3571.

SUPPLEMENTARY INFORMATION: On February 11, 1977, a notice was published in the FEDERAL REGISTER (42 FR 8662) inviting comments concerning the 1977-78 price support program for milk. A similar notice was also issued in a USDA press release. The Department received 77 written comments from dairy cooperatives and associations, farmers, dairy product manufacturers and dealers, and consumers. A number of recommendations were for increases in the support price: 17 to 80 percent of parity, one to 85 percent of parity, 3 to from 85 to 90 percent of parity, 29 to 90 percent of parity, and 5 to 100 percent of parity. In addition, 12 respondents recommended an unspecified increase in the support price, and 4 were against a support price increase. Of the 22 dairy farmer cooperatives and associations responding, their recommendations are summarized as follows: 18 recommended removal of the price advantage for cheese, 16 recommended quarterly adjustments in the support price, 13 recommended discontinuing CCC sales of high-moisture and old nonfat dry milk on competitive bids, 13 recommended increasing CCC's prices for unrestricted use sales of dairy products, one favored the purchase of barrel cheese, 4 opposed the purchase of barrel cheese, 5 recommended an increase in utilization of dairy products acquired under the program, and one recommended an increase in processing margins.

After considering the comments received, it was determined necessary to increase the support price to $9.00 per hundredweight, estimated to be 83.0 percent of parity on April 1, 1977. The support price of $8.26, in effect October 1, 1976, through March 31, 1977, was estimated to be only 76.2 percent of parity on April 1, 1977. The price support program for the 1977-78 marketing year was described in a USDA press release. The latest available statistics of the Federal

Government were used in making determinations under this rule.

The increase in support was necessary to assure adequate farm income in light of recent declines in milk prices, increases in the costs of feed, hay and other production items, and the possibility that recent drought conditions may continue.

There has been severe drought in important milk producing areas in the West and Midwest. As a result, feed costs have risen significantly in the last several months. Hay and other roughages have been in very short supply, and producers have been forced to truck needed supplies from distant areas at greatly increased costs. In some localities, the cost of hay has more than doubled.

Moreover, the market prices for milk have dropped 70 cents per hundredweight, nearly 8 percent, in the last six months.

As a result of the higher feed costs, and much lower milk prices, the milk-feed price ratio, an important measure of the profitability of producing milk, has declined substantially in recent months. The milk-feed price ratio (pounds of feed equal in value to a pound of milk) was 1.49 in February, down from both November's 1.65 and last February's 1.66. The difference between the price of 100 pounds of milk and 100 pounds of concentrate ration was $3.14 in February, down from $3.91 in November and $3.90 a year ago.

The increase in the support price should accomplish the objectives of legislation and assure that milk prices received by farmers will keep pace with increases in the prices farmers must pay for feed and other costs of production, including the rising cost of energy, another important item in the cost of producing milk. The increase in the support price will help producers pay these higher costs and continue in dairying, thereby possibly preventing much higher increases in market prices later because of critical supply shortages resulting from large numbers of farmers quitting dairying.

The support level is achieved through offers by the Commodity Credit Corporation (CCC) to purchase carlots of butter, American-type cheese and nonfat dry milk at announced prices. The purchase prices are designed to result in a national annual average price paid to farmers at least equal to the announced support price. The support price will be reviewed again in six months to determine of further adjustments are needed to carry out the legislative objectives.

Other changes in the support program are as follows:

The price advantage for cheese under the support program was eliminated. CCC purchase prices in effect April 1, 1976, through March 31, 1977, enabled cheese manufacturers to pay dairy farmers 30 cents per hundredweight more than butter-nonfat dry milk manufacturers. This provision was established to avoid increasing the purchase price for nonfat dry milk and to minimize the increase in the purchase price for butter. The provision is no longer advisable since cheese production and stocks have risen sharply.

In order to better enable barrel cheese manufacturers to pay producers the support price for their milk, CCC will purchase barrel cheese in fiber barrels for an indefinite period at 95 cents per pound—3 cents less than the price for block cheese. A decision on whether to continue buying barrel cheese on a permanent basis will be made at a later date, based on CCC's experience with storage and processing, and on whether there is a continuing need for such purchases. Barrel cheese, which is used mainly to make American process cheese, represents 60 percent of the American-type cheese produced in the U.S.

Prices of barrel cheese have been severely depressed in the past several months and have remained depressed even though CCC bought large quantities of process cheese. CCC will continue to purchase Cheddar cheese in 40-pound blocks at the announced price and will continue to buy process cheese, as needed, on a competitive bid basis.

The sale by CCC of high-moisture and old nonfat dry milk on competitive bids is being temporarily discontinued. CCC inventories of such nonfat dry milk have been reduced substantially through past sales and donation program dispositions, and it is not necessary to continue sales at this time.

In order to encourage the industry to store its own dairy products for use in the short production season of the fall and winter, the CCC sales prices of dairy products for unrestricted use were increased from 105 to 110 percent of the current CCC purchase prices. In addition to providing more incentive for the industry to store products, the higher sell-back prices will cover increased carrying costs.

Accordingly, based on the $9.00 support price, § 1430.282 is revised to read as follows:

§ 1430.282 Price support program for milk.

(a) (1) The general levels of prices to producers for milk will be supported from April 1, 1977, through March 31, 1978, at $9.00 per hundredweight for manufacturing milk.

(2) Price support for milk will be through purchases by Commodity Credit Corporation of butter, nonfat dry milk, and Cheddar cheese, offered subject to the terms and conditions of purchase announcements issued by the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(3) Commodity Credit Corporation may, by special announcements, offer to purchase other dairy products to support the price of milk.

(4) Purchase announcements setting forth terms and conditions of purchase may be obtained upon request from:

United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Commodity Operations Division, Washington, D.C. 20250; or

United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Prairie Village ASCS Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas 66208.

(b) (1) Commodity Credit Corporation will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

[In dollars per pound]

Commodity and location	Produced before Apr. 1, 1977	Produced on or after Apr. 1, 1977
Cheddar cheese: Standard moisture, 37.8 to 39.0 pct:[1]		
40-pound blocks, U.S. Grade A or higher	0.9250	0.9800
500 pounds in fiber barrels, U.S. Extra Grade[2]		.9500
Nonfat dry milk, spray process, U.S. Extra Grade:[3]		
Unfortified	.6240	.6800
Fortified (vitamins A and D)	.6340	.6950
Butter: U.S. Grade or A higher, New York, N.Y., Jersey City, Newark, and Secaucus, N.J	.9275	1.0275

[1] The price per pound for cheese which contains less than 37.8 pct moisture shall be as specified in form ASCS-150. Copies are available in offices listed in (a)(4).

[2] Also includes granular cheese.

[3] If upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of 0.50 (½)per pound of nonfat dry milk.

(2) Offers to sell butter at any location for which a price is not specifically provided for in this section will be considered at the price set forth in this section for New York City, less 80 percent of the lowest published domestic railroad through freight rate for frozen butter per pound gross weight for a 60,000 pound carlot, in effect at the beginning of each marketing year (April 1), from such other point to New York City. The minimum price at any location shall be the price at New York City minus three cents per pound. Bulk butter offered in the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, must have been produced in such states. Butter produced elsewhere is ineligible for offering to CCC in such states.

(c) (1) The block cheese shall be U.S. Grade A or higher; the barrel cheese shall be U.S. Extra Grade.

(2) The nonfat dry milk shall be U.S. Extra Grade, except moisture content shall not exceed 3.5 percent.

(3) The butter shall be U.S. Grade A or higher.

(d) The products shall be manufactured in the United States from milk produced in the United States and shall not have been previously owned by CCC.

(e) Purchases will be made in carlot weights specified in the announcements. Grades and weights shall be evidenced by inspection certificates issued by the U.S. Department of Agriculture.

(Sec. 201, 401, Pub. L. 439, 81st Cong., 63 Stat. 1052, 1054, as amended (7 U.S.C. 1446, 1421); sec. 4(d), Pub. L. 806, 80th Cong., 62 Stat. 1070, as amended (15 U.S.C. 714b(d).)

The Commodity Credit Corporation has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Inflation Impact Statement has been prepared.

Signed at Washington, D.C. on: April 21, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-12398 Filed 4-29-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 2—RULES OF PRACTICE

Commission Review of Appeal Board Decisions and Procedure for Request for Stays

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules of practice to provide a procedure for parties to petition the Commission for a discretionary review of a decision or action of the Atomic Safety and Licensing Appeal Board. The Commission is also providing a procedure for parties to apply for stays of the decisions or actions of both presiding officers and the Atomic Safety and Licensing Appeal Board. Based on its experience, the Commission is issuing these rules because it believes that they will be of benefit to parties to proceedings.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Martin G. Malsch, Director and Chief Counsel, Regulations Division, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (202-492-7203).

SUPPLEMENTARY INFORMATION: On November 13, 1976, the Commission published for comment two new proposed sections to 10 CFR Part 2. The first of the new sections, § 2.786, would provide a procedure for Commission review of decisions and actions of an Atomic Safety and Licensing Appeal Board. The second new section, § 2.788, would provide a procedure for requesting stays of decisions and actions of presiding officers and Atomic Safety and Licensing Appeal Boards pending review.

It is anticipated that the use of petitions for discretionary review will increase participation in the Commission's decision making process and provide the Commission with focused views on the validity and impact of Appeal Board decisions. It is hoped that the new procedures will not impose an expensive and time consuming burden on parties to licensing proceedings and ultimately on the public.

The rules of practice for requesting stays now provide a formal procedure for seeking that extraordinary relief. As with the procedure for discretionary review, the Commission intends to follow closely the application of these rules in practice with a view to making whatever changes are necessary to reduce unnecessary burdens and prevent abuse or unwarranted harassment of parties by their misuse.

Comments. Nine letters of comment were received from members of the public with respect to these two proposed sections. All of the comments favored the promulgation of regulations providing for discretionary review and for stays of decisions. Several of the commentors, however, had detailed remarks on the procedures and offered detailed drafting changes to the proposed regulations. The comments and their resolutions are as follows:

(1) Two comments were addressed to § 2.786(b)(1). It was noted that the paragraph allowed for a petition with respect to an important question of law or policy, but did not allow for a petition with respect to factual matters. It was pointed out that the rule in § 2.786(b)(4)(ii) implied a review of a question of fact when an Atomic Safety and Licensing Board and an Appeal Board differed in their view of a factual issue. The comment is well taken, and § 2.786(b)(1) has been amended by the addition of the word "fact" before the phrase "law or policy." The second comment questioned the reasonableness of excluding petitions concerning interlocutory matters. The Commission has decided not to change the section in this regard. The review procedure under § 2.786(b) is intended to provide a limited review only of decisions and actions by Appeal Boards that would otherwise be final.

(2) With respect to proposed § 2.786(b)(2)(ii), it was pointed out that the final phrase "if they were not, why not" appeared to be in conflict with the language of § 2.786(b)(4)(iii) that petitions would not be granted to the extent they relied upon matters that could have been but were not raised before the Appeal Board. Asking for the petitioner to explain why matters were not raised appeared to some commentors to conflict with the latter provision. The point of confusion is recognized, and § 2.786(b)(2)(ii) has been amended so that it is clear that the explanatory statement required in the petition should address why matters not raised before the Appeal Board could not have been raised there. If the matter could not have been raised before the Appeal Board, then the constraint in § 2.786(b)(4)(iii) does not apply. A similar change has been made to § 2.788(b)(3).

(3) Several commentors questioned the wisdom of not allowing answers in support of a petition. The difficulty with such answers is that they could raise new arguments without giving other parties an opportunity to respond since, for purposes of efficiency, the Commission does not desire further pleadings after answers are filed. Accordingly, all those who support review shou'd petition under § 2.786(b)(1) within 15 days after service of the Appeal Board decision. This does not mean that duplicative petitions must be filed. Parties can communicate informally prior to filing, and one petition can incorporate by reference the substance of another.

(4) Several commentors questioned whether the limitations on review in § 2.786(b)(4) (ii), (iii) and (iv) should be as inflexible as they appear. It was suggested that in each of the three limiting subparagraphs the word "ordinarily" should be inserted to indicate that in each of those areas the Commission would also act in its discretion. The Commission in this respect intends a set of strict rules in order to retain the concept of a limited review. Accordingly, it prefers, at this time, not to exercise its discretion within the enumerated areas of constraint in § 2.768(b)(4) (ii), (iii) and (iv). The word "ordinarily" is retained in § 2.786(b)(4)(i) since that paragraph concerns more fundamental matters of Commission concern in which a broader degree of discretion is appropriate.

(5) Other comments on § 2.786(b)(4) suggested including important antitrust considerations and important procedural questions as reviewable matters under § 2.786(b)(4)(i). The Commission accepts these comments. The paragraph has been amended accordingly. In addition, one commentor suggested allowing a generalized right to request review as to questions of law in § 2.786(b)(4). The Commission believes, however, that at this time it is preferable procedure to limit its review of questions of law to those involving significant environmental, public health and safety, common defense and security, antitrust or procedural issues, or those questions of law which raise important questions of public policy. Accordingly, no change has been made in this regard.

(6) Commentors also question whether it was appropriate in § 2.786(b)(4)(ii) to preclude Commission review when both the Licensing Board and Appeal Board came to the same factual determinations when the factual determination by both was erroneous. The Commission believes that as to factual matters, two levels of decision within the agency are enough, and that there is no need for a third factual review by the Commission itself.

(7) Further question was raised by a commentor as to whether the constraint in § 2.786(b)(4)(iii) applied to issues raised sua sponte by the Appeal Board itself. The Commission believes that if the Appeal Board raises an issue sua sponte then that is an issue "raised before" the Appeal Board. In order to resolve the ambiguity an appropriate change is made in § 2.786(b)(4)(iii).

(8) In addition to the foregoing, a new paragraph (iv) has been added to § 2.786(b)(4). The new paragraph is in response to comments raising the question of the possibility of duplicate or alternative review requests, one by a motion for reconsideration filed with the Appeal Board and one by a petition for review filed with the Commission. The new paragraph states that a petition for review will not be granted as to issues raised before an Atomic Safety and Li-

censing Appeal Board on a pending motion for reconsideration. When a reconsideration motion is disposed of, a party may then seek further review by filing a petition for review under § 2.786(b)(1). Seeking reconsideration is not, however, a precondition for a § 2.786(b)(1) petition.

(9) Commentors also raised the question as to whether the proposed rule left open questions of finality of Commission decisions and orders. It is the considered judgment of the Commission that no changes are necessary in § 2.786(b)(5) to meet questions of finality. In the Commission's view, a decision is clearly final under the rule 20 days after filing the petition for review if the Commission has not acted, and, if the Commission grants the petition, Commission action would be final after it has reviewed the matter and issued its decision.

(10) With respect to § 2.786(b)(6) one commentor suggested that participation should not be limited to parties designated by the Commission, but that others should be allowed to file appropriate pleadings and briefs. Because the Commission may desire to limit review to issues involving only certain parties, it does not accept this suggestion.

(11) A comment raised the question as to the necessity of § 2.786(b)(7), noting that acceptance of petitions for reconsideration should be a matter of Commission discretion and need not be stated in a rule. The Commission believes that the provision that it will not accept petitions for reconsideration of Commission decisions granting or denying review in whole or part serves to put parties on notice not to file petitions for reconsideration. The Commission believes that at some point there must be an end to litigation before it. The provision also underscores the finality of denial by silence after 20 days.

With respect to proposed § 2.788, "Stays of Decisions of Presiding Officers and Atomic Safety and Licensing Appeal Boards Pending Review," several commentors commented upon the confusion engendered by including a parenthetical provision allowing an application for a stay of a decision or action denying or granting a stay within the provision for an application for a stay with respect to a decision or action on substantive issues. In order to resolve the apparent confusion the parenthetical expression is deleted from § 2.788(a) and a new paragraph (h) has been added to the section. The new paragraph provides that any party to the proceeding may file an application for a stay of the effectiveness of a decision or action denying or granting a stay. With respect to the decision or action of a presiding officer the new paragraph notes that the application shall be filed with the Atomic Safety and Licensing Appeal Board and with respect to the decision or action of an Atomic Safety and Licensing Appeal Board that the application shall be filed with the Commission. This aspect of the new paragraph differs from the general rule in § 2.788(f) as to where an application for a stay should be filed in other circumstances. The Commission agrees with commentors that it does not appear appropriate or necessary with respect to a request for a stay of a decision or action on a stay to go back again to the same body that either granted or denied the stay in the first instance. The Commission emphasizes, however, that this variation applies only to the unique situation of filing an application for a stay with respect to a decision or action that in itself denied or granted an application for a stay.

Other comments on § 2.788 were of a relatively minor nature and involved primarily drafting problems.

(1) A comment noted that it would be appropriate in § 2.788(b)(4) that references to the record with respect to factual disputes would be appropriate. The Commission agrees and has changed the wording of that paragraph accordingly.

(2) A commentor commented that § 2.788(c) was confusing as to the method for filing the application. The commentor apparently read the section as requiring that the procedure for serving shall be the same as the procedure for filing. This was not the intention of the Commission. The Commission intended that service shall be by the same method of communication as used for filing, that is, if the application is filed by telegram it should be served by telegram. Appropriate words have been added to clarify the intention.

(3) Several commentors noted that §§ 2.788(d) and 2.788(g) had different time periods and different rules for the filing of answers to applications for a stay. In order to resolve the apparent conflict, the Commission has decided to delete in its entirety § 2.788(g) on the ground that it is redundant and unnecessary if other appropriate drafting changes are made in § 2.788(d). These other changes are also responsive to comments. They include, amending § 2.788 (d) to change the period of time for filing an answer to an application from 10 days to 7 days. Appropriate drafting changes are also made to indicate clearly that answers both supporting or opposing the granting of a stay may be filed within the time period allowed. Here, unlike the situation with petitions for review, answers in support may be unavoidable since time pressures could prevent the informal communications that enable one filing to incorporate another. It is further clarified that no further replies will be entertained on the ground that replies to answers are not seen as necessary at this stage since the issues should already be precisely defined. The last sentence of § 2.788(d) is amended to conform with the changes made in § 2.788(c) as to the use of like communications methods for both service and filing.

(4) Commentors also raise the question of whether it was appropriate to codify the criteria to be considered in granting or denying a request for a stay. The Commission is of the opinion that it is appropriate to codify these criteria in the regulations on the ground that the codification will assist the parties in framing their applications for and their answers to requests for stays. One commentor suggested removal of the word "highly" in the first criterion. That criterion, like the others, is based on *Virginia Petroleum Jobber's Association v. FPC*, 259 F. 2d 921, 925 (D.C. Cir. 1958), and represents a standard that has been previously applied by the Commission. See *In the Matter of Petition of Natural Resources Defense Council*, NRCI-76/2 at 78 (February 12, 1976). The precise phrasing of the first *Virginia Petroleum* criterion is whether the moving party has made a "strong showing that it is likely to prevail on the merits of its appeal." That phrasing has been substituted for the previous version of the first criterion.

(5) A commentor suggested that § 2.788(f) be revised to require that the request for a stay be made to the deciding body above the body that issued the decision as to which the stay is requested. That is, with respect to an Atomic Safety and Licensing Board decision the stay would be requested from the Appeal Board. With respect to an Appeal Board decision the request for a stay would be made to the Commission. The Commission does not believe it appropriate for this procedure to be followed with respect to requests for stays of decisions or actions on substantive issues. Unlike the case addressed in new § 2.788(h) dealing with a stay of a stay, the Commission believes it more desirable that the Appeal Board review in the first instance the request of a stay of its decisions or actions on substantive issues.

(6) Former § 2.788(h) has been renumbered as § 2.788(g), and has been redrafted as suggested by a commentor to provide greater clarity and precision as to the extraordinary request for a temporary stay to preserve the status quo. Also, a provision has been added to the effect that a party applying orally must make all reasonable effort to inform other parties orally of the application for a stay to preserve the status quo prior to the filing of answers.

(7) A request was made to define "decision or action" as used in both §§ 2.786 and 2.788. The Commission does not believe it is necessary to do so at this time. If experience shows that the phrase leads to unnecessary applications for review or a stay, the Commission can amend the rule to further limit its scope.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR Part 2 are published as a document subject to codification, to be effective on June 1, 1977.

1. Section 2.786 is revised to read as follows:

§ 2.786 Review of decisions and actions of an Atomic Safety and Licensing Appeal Board.

(a) Within thirty (30) days after the date of a decision or action by an Atomic Safety and Licensing Appeal Board under § 2.785, the Commission may, in cases of exceptional legal or policy importance, review the decision or action on its own motion.

(b) (1) Within fifteen (15) days after service of a decision or action by an Atomic Safety and Licensing Appeal Board under § 2.785 other than a decision or action on a referral or certification under §§ 2.718(i) or 2.730(f), a party may file a petition for review with the Commission on the ground that the decision or action is erroneous with respect to an important question of fact, law, or policy.

(2) A petition for review under this paragraph shall be no longer than ten (10) pages, and shall contain the following:

(i) A concise summary of the decision or action of which review is sought;

(ii) A statement (including record citation) where the matters of fact or law raised in the petition for review were previously raised before the Atomic Safety and Licensing Appeal Board and, if they were not, why they could not have been raised;

(iii) A concise statement why in the petitioner's view the decision or action is erroneous; and

(iv) A concise statement why Commission review should be exercised.

(3) Any other party to the proceeding may, within ten (10) days after service of a petition for review, file an answer opposing Commission review. Such an answer shall be no longer than ten (10) pages and should concisely address the matters in paragraph (b)(2) of this section to the extent appropriate. No answer in support of a petition for review or further replies to answers will be entertained by the Commission.

(4) The grant or denial of a petition for review is within the discretion of the Commission, except that:

(i) A petition for review of matters of law or policy will not ordinarily be granted unless it appears the case involves an important matter that could significantly affect the environment, the public health and safety, or the common defense and security, constitutes an important antitrust question, involves an important procedural issue, or otherwise raises important questions of public policy;

(ii) A petition for review of matters of fact will not be granted unless it appears that the Atomic Safety and Licensing Appeal Board has resolved a factual issue necessary for decision in a clearly erroneous manner contrary to the resolution of that same issue by the Atomic Safety and Licensing Board;

(iii) A petition for review will not be granted to the extent that it relies on matters that could have been but were not raised before the Atomic Safety and Licensing Appeal Board. A matter raised sua sponte by an Appeal Board has been raised before the Appeal Board for the purpose of this section; and

(iv) A petition for review will not be granted as to issues raised before the Atomic Safety and Licensing Appeal Board on a pending motion for reconsideration.

(5) If within twenty (20) days after the filing of a petition for review the Commission does not grant the petition, in whole or in part, the petition shall be deemed denied, unless the Commission in its discretion extends the time for its consideration of the petition and any answers thereto.

(6) If a petition for review is granted, the Commission may issue an order specifying the issues to be reviewed and designating the parties to the review proceeding and direct that appropriate briefs be filed, oral argument be held, or both.

(7) Petitions for reconsideration of Commission decisions upon review, or granting or denying review in whole or in part, will not be entertained.

(8) Neither the filing nor the granting of a petition for review will stay the effect of the decision or action of the Atomic Safety and Licensing Appeal Board, unless otherwise ordered by the Commission.

(9) Except as provided in this section and Section 2.788, no petition or other request for Commission review of a decision or action of an Atomic Safety and Licensing Appeal Board will be entertained.

2. A new § 2.788 is added to read as follows:

§ 2.788 Stays of decisions of presiding officers and Atomic Safety and Licensing Appeal boards pending review.

(a) Within seven (7) days after service of a decision or action any party to the proceeding may file an application for a stay of the effectiveness of the decision or action pending filing of and a decision on an appeal or petition for review. Except as provided in paragraph (f) of this section, such an application may be filed with the Commission, Atomic Safety and Licensing Appeal Board, or the presiding officer.

(b) An application for a stay shall be no longer than ten (10) pages, exclusive of affidavits, and shall contain the following:

(1) A concise summary of the decision or action which is requested to be stayed;

(2) A concise statement of the grounds for stay, with reference to the factors specified in paragraph (e) of this section;

(3) In the case of an application to the Commission for stay of decisions or actions by an Atomic Safety and Licensing Appeal Board, a statement where (including record citation, if available) a stay was requested from the Appeal Board and denied. If no such request was made of the Appeal Board, the application should state why it could not have been made; and

(4) To the extent that an application for a stay relies on facts subject to dispute, appropriate references to the record or affidavits by knowledgeable persons.

(c) Service of an application for a stay on the other parties shall be by the same method, e.g. telegram, mail, as the method for filing the application with the Commission, Atomic Safety and Licensing Appeal Board, or the presiding officer.

(d) Within seven (7) days after service of an application for a stay under this section, any party may file an answer supporting or opposing the granting of a stay. Such answer shall be no longer than ten (10) pages, exclusive of affidavits, and should concisely address the matters in paragraph (b) of this section to the extent appropriate. No further replies to answers will be entertained. Filing of and service of an answer on the other parties shall be by the same method, e.g. telegram, mail, as the method for filing the application for the stay.

(e) In determining whether to grant or deny an application for a stay, the Commission, Atomic Safety and Licensing Appeal Board, or presiding officer will consider:

(1) Whether the moving party has made a strong showing that it is likely to prevail on the merits;

(2) Whether the party will be irreparably injured unless a stay is granted;

(3) Whether the granting of a stay would harm other parties, and

(4) Where the public interest lies.

(f) An application to the Commission for a stay of a decision or action by an Atomic Safety and Licensing Appeal Board will be denied of a stay was not, but could have been, sought before the Appeal Board. An application for a stay of a decision or action of a presiding officer may be filed before either the Atomic Safety and Licensing Appeal Board or the presiding officer, but not both at the same time.

(g) In extraordinary cases, where prompt application is made under this section, the Commission, Atomic Safety and Licensing Appeal Board, or presiding officer may grant a temporary stay to preserve the status quo without waiting for filing of any answer. The application may be made orally provided the application is promptly confirmed by telegram. Any party applying under this paragraph shall make all reasonable efforts to inform the other parties of the application, orally if made orally.

(h) A party may file an application for a stay of a decision or action granting or denying a stay. As to a decision or action of a presiding officer the application shall be filed with the Atomic Safety and Licensing Appeal Board. As to a decision or action of the Atomic Safety and Licensing Appeal Board the application shall be filed with the Commission. In each case the procedures and criteria of paragraphs 2.788(a)–(e) shall be followed.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 27th day of April, 1977.

For the Nuclear Regulatory Commission,

SAMUEL J. CHILK,
Secretary of the Commission.

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CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Passthrough of Increased Non-Product Costs by Resellers and Retailers of Propane, Butane, and Natural Gasoline

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This document amends the Federal Energy Administration's (FEA), Mandatory Petroleum Price Regulations to allow small resellers and retailers of propane, butane, and natural gasoline the option of passing through without regard to any cents per gallon price limitation certain defined non-product cost increases incurred by the reseller or retailer in sales of propane, butane, or natural gasoline or of using the standard markup currently applied to sales of propane to reflect non-product cost increases of propane. Large resellers are required to use the former method.

Certain resellers and retailers may carry forward for possible future recovery increased non-product costs incurred in the sale of propane, butane, and natural gasoline which are not recovered in the current month. No amendments to the refiner price regulations are adopted.

The standard markup permitted sellers of propane apparently does not currently reflect the actual non-product cost increases being incurred by many firms. Thus, those sellers, currently forced to absorb increased non-product costs because the standard markup is too low, will be given the option of recouping actual cost increases.

EFFECTIVE DATE: May 1, 1977.

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SUPPLEMENTARY INFORMATION:

I. HISTORY

Pursuant to §§ 212.83(c)(2)(iii) and 212.93(b), refiners, resellers and retailers of propane, butane, and natural gasoline are permitted to charge a price for propane, butane or natural gasoline which is the weighted average price charged for the product to the class of purchaser concerned on May 15, 1973, plus an amount which reflects the dollar-for-dollar passthrough of the increased cost of the product since May 15, 1973. In addition, beginning April 1, 1974 (39 FR 12010, April 2, 1974), § 212.83(c)(2)(iii)(E) (originally § 212.87(c)(4)(vi)) and 212.93(b)(4) permitted sellers of propane in sales other than retail sales to add one-half cent per gallon and in retail sales to add one cent per gallon to prices otherwise permitted to be charged, to reflect non-product cost increases incurred by the seller in sales of propane after May 15, 1973.

On October 7, 1975 (40 FR 47755, October 10, 1975), §§ 212.83(c)(2)(iii)(E) and 212.93(b)(4) were amended to increase the maximum markup to reflect non-product cost increases in retail sales of propane from one cent per gallon to three cents per gallon, except for bulk sales to public utilities, synthetic natural gas plants and the petrochemicals industry. The increased non-product cost markups to these customers remained limited to not more than one cent per gallon. With respect to resellers and retailers of butane and natural gasoline, no price increases to reflect increased non-product costs were permitted.

The amendments issued today allow small resellers and retailers of propane, butane, and natural gasoline the option of passing through without regard to any cents per gallon price limitation certain defined non-product cost increases incurred by the reseller or retailer in sales of propane, butane, or natural gasoline or of using the standard cents per gallon markups currently applied to sales of propane to reflect non-product cost increases of propane. Large resellers (those with total sales of propane, butane, and natural gasoline in the preceding calendar year of five million or more gallons) are required to calculate their increased non-product costs pursuant to these amendments to the price regulations.

II. STANDARDIZED MARKUP CONCEPT

The standardized cents-per-gallon markup to reflect cost increases was first implemented during Phase IV of the Cost of Living Council ("CLC") program for certain covered products, to serve as a guide to and as a ceiling on the amount of non-product cost increases which could be passed through in price increases. The standard markup served as a guide in determining price increases for the great majority of resellers and retailers because they were unable accurately to calculate actual non-product cost increases on a cents per gallon basis. It also served as a ceiling on the pass through of non-product costs by resellers and retailers because the standardized markups permitted were conservative estimates of actual non-product cost increases incurred by this segment of the industry.

The primary reasons the standardized markups to reflect increased non-product costs for covered products were adopted were administrative. First, thousands of small firms with unsophisticated accounting systems were subject to petrolum product price controls for the first time and accurate calculation of increased non-product costs for each covered product on a per-gallon basis could not realistically be expected. Second, the CLC and subsequently the FEA did not have the manpower necessary to audit individual firms' non-product cost increase calculations and thus a total industry enforcement effort based on actual non-product cost increases was not feasible. Even though price increases to reflect the standardized markup must be cost justified, (See Rulings 1975-14 and 1975-16) because of the conservative markups permitted by FEA, a majority of retailers and resellers can cost justify the maximum amount permitted under the standardized cents per gallon markups.

III. PASSTHROUGH OF DEFINED NON-PRODUCT COST INCREASES

With respect to propane, butane, and natural gasoline, there are three reasons FEA is permitting certain resellers and retailers the option of using the standardized cents per gallon markup for propane—which serves as a guide to and limit on non-product cost increase passthroughs—or of permitting firms to pass through non-product cost increases calculated pursuant to certain defined category limitations for propane, butane, and natural gasoline, without regard to any cents per gallon limitation.

First, the number of resellers and retailers of propane, butane, and natural gasoline, in relation to the total number of resellers and retailers of petroleum products, is not large. Accordingly, it is feasible for FEA to monitor non-product cost increase calculations to insure they are calculated accurately.

Second, retailers and resellers of propane have considerable experience in making the computations necessary to comply with the new FEA regulations. The two increases in the standardized cents per gallon markup permitted to date for propane have been based on evidence supplied by the industry indicating that a larger markup was justified because of increased non-product costs. Thus, the majority of retailers and resellers of propane have demonstrated experience in making non-product cost increase computations on a cents per gallon basis.

Third, the conservative standard markup permitted sellers of propane apparently does not currently reflect the actual non-product cost increases being incurred by many firms. Thus, those sellers, currently forced to absorb increased non-product costs because the standard markup is too low, will be given the option of recouping actual cost increases.

IV. NON-PRODUCT COST CATEGORIES

FEA is limiting the amount of increased non-product costs which may be passed through by sellers of propane, butane, and natural gasoline, which opt or are required to pass through non-product cost increases on the basis of specific cost calculations, to seven defined categories. The categories are labor, utility, interest, tax, maintenance, depreciation, and overhead cost increases, including rent and transportation. All non-product cost increase calculation must be computed and be attributable to the sale of propane, butane or natural gasoline according to generally accepted accounting practices historically and consistently applied by the firm concerned.

A. *Labor cost*. Labor cost is the total dollar amount of remuneration or inducement, either direct or indirect, paid for personal services to personnel employed by the firm. Compensation for any services paid to personnel who own or control a financial interest (share in the firm's profits) in the firm are excluded from this calculation, except that firms may include other compensation paid to personnel whose sole financial interest is ownership of stock in a public corporation or participation in an established profit sharing plan historically offered by the firm in this calculation. Also, no amount included in maintenance cost increase may be included in labor cost increase.

B. *Utility cost*. Utility cost is the total dollar amount paid for the use of any service or commodity provided by a regulated utility, and includes but is not limited to increases in water, gas, electricity and telephone costs.

C. *Interest cost*. Interest cost is the total dollar amount of interest paid.

D. *Federal, state and local tax*. The federal, state and local tax category of non-product costs includes costs incurred in payment of new types of property, excise, franchise and other similar taxes such as license fees imposed since May, 1973, as well as taxes previously paid but not permitted to be passed through. Federal, state or local income taxes are excluded from this category of non-product costs.

E. *Maintenance cost*. Maintenance cost is the cost attributable to repairing and servicing the firm's equipment, machinery, and facility. Maintenance cost includes the cost of contract maintenance.

F. *Depreciation cost*. Depreciation cost is the cost attributable to depreciation of the firm's equipment, machinery, and facility.

G. *Overhead cost*. Overhead cost includes the dollar amount of costs of rent of real property, postage, office supplies, normal gas losses, insurance, employees' uniforms, outside legal and accounting fees, and transportation costs directly attributable to reselling and retailing operations. Transportation costs included in the computation of product cost increase (i.e., transportation cost associated with bringing product into inventory) are not included in this definition.

V. NON-PRODUCT COST INCREASE CALCULATIONS

An annualized "sales adjusted method" is used to compute increased non-product cost. This method of computing cost increases is similar to the present "output adjusted method" for computation of refiners' non-product cost increases. Pursuant to the annualized "sales adjusted method" of computation, the amount of increase in each category of non-product cost is computed by determining the difference between the amount of the specific non-product cost per unit of propane, butane or natural gasoline sold in the year immediately preceding the current month and the amount of that cost in 1973 (calculated, as discussed below, by using the first three fiscal quarters of 1973 and the average of the fourth quarter of 1972 and the fourth quarter of 1973) per unit of propane, butane or natural gasoline sold, multiplied by the amount of sales in the month preceding the current month.

Most of the comments received by FEA regarding non-product cost increase calculations emphasized the "seasonality" of propane, butane, and natural gasoline sales. The comments pointed out that generally retailers and resellers have fewer sales in May than in the winter months. Because many non-product costs are fixed costs and are incurred evenly over a twelve-month period, the per unit non-product cost of propane, butane, and natural gasoline is higher in May than other months. Accordingly, using May, 1973, as a base month from which to measure non-product cost increases, would not accurately reflect non-product cost increases because of the "seasonality" of product sales.

Retailers and resellers calculating actual non-product cost increases as defined in this amendment shall therefore be required to use an imputed per unit non-product cost for the year 1973 to determine non-product cost computations. As recommended in a number of comments received, firms will compute their current month per unit non-product cost by calculating the per unit cost for the twelve months immediately preceding the current month. This moving average method will insure that firms recoup their total non-product cost increases and do not experience wide fluctuations in calculations of increased non-product costs (including possible decreases) because propane, butane, and natural gasoline sales are highly seasonal.

The 1973 cost per unit of propane, butane or natural gasoline sold shall be computed using the non-product costs incurred and the volume of the specific product sold during the first three fiscal quarters of 1973 (January 1, 1973 through September 30, 1973) plus the average of such costs incurred and volumes sold in the fourth quarters of 1972 and 1973. (October 1, 1972 through December 31, 1972 cost and volume plus October 1, 1973 through December 31, 1973 cost and volume divided by two (2).) Sellers are required to average incurred cost and volume sold during the fourth quarter of 1973 with such cost and volume for the fourth quarter of 1972 because warm weather in the fourth quarter of 1973 resulted in sellers incurring higher costs and selling lower volumes than normal during that quarter.

The abnormal business conditions that existed in the fourth quarter of 1973 were a result of the unusually warm weather experienced by most of the country during that quarter. This is illustrated by comparing "heating degree-days" of the fourth quarter of 1973 with "heating degree-days" of the fourth quarter of 1972, of the average of fourth quarters of the ten year period 1962 through 1971, and of the average of the fourth quarters of the thirty year period 1941 through 1970. A "heating degree-day" is the deviation of the mean daily temperature below a base temperature equal to 65° F adjusted to reflect population density.

4th quarter:	*Heating degree-days*
1972	1,847
1973	1,568
1962 to 1971, 10-yr average	1,682
1941 to 1970, 30-yr average	1,675

NOTE.—Based on information supplied by National Oceanic and Atmospheric Administration.

Thus, the "heating degree-days" in the fourth quarter of 1973 were significantly below that in the fourth quarter of 1972 and the ten and thirty year fourth quarter averages. An average of the two quarters approximates the historic average.

Increased non-product costs may be included in a sellers' price only to the extent they are not included in its May 15, 1973, selling price. Also, non-product cost must be computed pursuant to generally accepted accounting principles historically and consistently applied by the firm concerned.

VI. REFINERS

In the notice of proposed rulemaking (42 FR 6857, February 4, 1977) FEA proposed that refiners calculate marketing cost attributable to their propane and butane wholesale and retail activities using the same defined categories of non-product cost increases as those being permitted retailers and resellers pursuant to this amendment. FEA has concluded that the proposed amendment for refiners should not be adopted for two reasons. First, the accounting problems created by the proposed amendments would be complicated and costly. Refiners' accounting systems do not segregate marketing cost as defined by FEA in the proposed amendments on a product basis. Second, refiners are currently allocating increased non-product cost as defined in "Fit" (§ 212.83(c)(2)(iii)(E)) (excludes marketing cost increase) and marketing cost increase, as defined in "Fit" (§ 212.83(c)(2)(iii)(E)) to propane, butane and natural gasoline on a volumetric basis. With respect to propane the passthrough of increased marketing cost in price increases is limited to the standardized cents per gallon markup set forth in subparagraph VI, "Fit." The total marketing cost increase allocated to butane and natural gasoline is available for recovery in price increases. Thus, the proposed amendment, which would have required refiners to calculate marketing cost increase using only the categories of marketing cost proposed in "Fit," would have reduced the total amount of marketing cost increase available for recovery on propane (subject to the limitation of "Fit"), butane, and natural gasoline.

VII. FILINGS

Sellers which elect or are required to pass through actual increased non-product costs are required to file with the appropriate FEA regional office their per unit non-product costs as defined in this section incurred in 1973, which is computed by using the sum of the average cost and volume for the fourth fiscal quarter of 1972 and 1973 and the first three fiscal quarters of 1973. Once a seller elects to pass through actual increased non-product cost, it shall continue to do so and any may not use the standardized markup in a subsequent month.

VII. CARRY-FORWARD OF UNRECOVERED INCREASED NON-PRODUCT COST

Sellers of propane, butane, and natural gasoline may carry forward or "bank" non-product cost increases unrecouped in the current month for recovery in a subsequent month. This is consistent with FEA's policy of permitting refiners to "bank" unrecouped non-product cost increases.

Sellers may carry forward such unrecouped costs regardless of the option, as set forth in § 212.93(b)(4), the seller chooses to calculate increased non-product cost.

VIII. NATURAL GASOLINE

FEA has determined that retailers and resellers of natural gasoline have incurred non-product cost increases similar to those incurred by sellers of propane and therefore should be permitted to pass through actual non-product cost increases. Thus, actual increased non-product costs as defined by FEA and incurred by retailers and resellers of natural gasoline may be passed through in price increases on a dollar-for-dollar basis.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended effective May 1, 1977.

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.93(b)(4) is amended to read as follows:

§ 212.93 **Price rule.**

(b) Not withstanding the provisions of paragraph (a) of this section:

* * * * *

(4) With respect to sales of propane, butane, and natural gasoline beginning with March, 1977: (i) A seller, which sold fewer than five million gallons of propane, butane, and natural gasoline in the immediately preceding fiscal year, may charge a price in excess of the amount otherwise permitted to be charged for propane, butane or natural gasoline pursuant to the provisions of this section to reflect increased non-product cost which the seller incurred since 1973: *Provided*, That the amount of increased non-product costs may be calculated only pursuant to either subparagraph (A) of § 212.93(b)(4)(iii), which permits computation and passthrough of increased non-product costs only for propane (and not for butane and natural gasoline), or subparagraph (B) of § 212.93(b)(4)(iii), which permits computation and passthrough of increased non-product costs for propane, butane, and natural gasoline. However, any seller which elects to pass through increased non-product cost pursuant to subparagraph (B) of § 212.93(b)(4)(iii), in subsequent months may not pass through increased non-product cost pursuant to subparagraph (A) of § 212.93(b)(4)(iii).

(ii) A seller with total sales of propane, butane, and natural gasoline of five million gallons or more during the immediately preceding fiscal year may charge a price in excess of the amount otherwise permitted to be charged for propane, butane or natural gasoline to reflect increased non-product cost which the seller has incurred since 1973 provided that the seller calculates non-product cost increases pursuant to § 212.93(b)(4)(iii)(B).

(iii) *Maximum allowable amounts of increased non-product costs.* The maximum amounts of increased non-product costs which may be reflected in prices charged for propane, or for propane, butane, and natural gasoline pursuant to § 212.93(b)(4)(i) and (ii) are either:

(A) Three cents per gallon with respect to all retail sales of propane except those to the petrochemicals industry, to public utilities and to synthetic natural gas plants; one cent per gallon with respect to retail sales of propane to the petrochemicals industry, to public utilities and to synthetic natural gas plants; and one-half cent per gallon with respect to all other sales of propane, or

(B) The amount of increased non-product cost incurred by the firm since May, 1973, which is computed pursuant to the factor "E^t" as follows:

E^t=the total increased non-product costs attributable to sales of propane, butane, and natural gasoline: *Provided*, That such costs are included only to the extent that such costs are attributable to propane, butane, and natural gasoline sales operations under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned, and are not included in computing May 15, 1973 prices or in computing increased product costs. The costs treated as paid or incurred during a firm's fiscal year by inclusion in "E^t" shall not exceed the amounts of such costs actually paid or incurred during that fiscal year. "E^t" shall be computed by adding the amounts calculated by applying the following formula, "E_n^t," separately to § 212.93(b)(4)(iii)(B), paragraphs (I) through (VII).

$$E_n^t = V^t\left(\frac{C_n^z}{V^z} - \frac{C_n^x}{V^x}\right)$$

E_n^t is the total increased non-product costs of the type "n": *Provided*, That such costs are included only to the extent that they are attributable to propane, butane, and natural gasoline sales operations under generally accepted accounting practices historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices or in computing increased product costs. Where:

"n"=references a category of non-product cost attributable to propane, butane, and natural gasoline sales operations as defined in paragraphs (I) through (VII), and is respectively labor, utility, interest, tax, maintenance, depreciation and overhead cost increases.

V^t=the total volume of propane, butane, and natural gasoline sold by the firm in the period "t."

V^z=the total volume of propane, butane, and natural gasoline sold by the firm in the period "z."

V^x=the total volume of propane, butane, and natural gasoline sold by the firm in the period "x."

C_n^z=the total dollar amount of the particular non-product cost of the type "n" incurred in the period "z."

C_n^x=the total dollar amount of the particular non-product cost of the type "n" incurred in the period "x."

"t"=the month of measurement (the month of measurement is the month immediately preceding the current month).

"x"=the nine month period beginning January 1, 1973 and ending September 30, 1973 plus the result of adding the three month period beginning October 1, 1972 and ending December 31, 1972 and the three month period beginning October 1, 1973 and ending December 31, 1973 and dividing that sum by two.

"z"=the twelve month period ending on the last day of the month of measurement, "t."

(I) *Labor cost increase.* Labor cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the total dollar amount of direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation for those personnel employed by the firm and directly involved in propane, butane, and natural gasoline sales operations, except personal services provided by personnel which own any portion of or receive any profits from the firm involved. (This exception does not include personnel which own stock in the firm if it is a public corporation or participants in any type of profit sharing plan historically offered by the firm.) No amount included in maintenance cost increase may be included in labor cost increase. The calculation must be based on the historical accounting practices employed by the firm and must be substantiated by a supporting document which summarizes the personnel considered in the calculation and the date of any remuneration increases.

(II) *Utility cost increase.* Utility cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for utilities.

(III) *Interest cost increase.* Interest cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for interest.

(IV) *Federal, state, and local tax cost increase.* Federal, state and local tax cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "*C*" refers to the dollar amount of federal, state, and local property, excise, franchise and other similar taxes incurred which are associated with propane, butane, and natural gasoline sales operations. Federal, state, and local income taxes are not includable in this amount.

(V) *Maintenance cost increase.* Maintenance cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "*C*" is the dollar amount of operating cost attributable to maintenance operations which are associated with propane, butane, and natural gasoline sales operations. Maintenance cost increase includes the cost of contract maintenance.

(VI) *Depreciation cost increase.* Depreciation cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "*C*" is the cost attributable to the depreciation of equipment, machinery, and the facility, which are associated with propane, butane, and natural gasoline sales operations: *Provided,* That such costs are computed according to generally accepted accounting practices historically and consistently applied by the firm and to the extent that such costs are not otherwise covered by this section. If Form 10-K is filed with the Securities and Exchange Commission or an analogous report is filed with a state regulatory agency, the amount computed for depreciation cost increase must be consistent with the figures used in preparing Form 10-K or such analogous report. Accounting procedures used to compute depreciation cost increase by refiners which do not file such form or report, or on whose behalf such form or report is not filed, must be calculated according to generally accepted accounting practices historically and consistently applied by the firm concerned for certified annual financial reports prepared by an independent accounting firm. No capital investments may be included in non-product costs as expenses; all such investments must be capitalized and depreciated and included in the computation of "E_n^t" for depreciation cost increase.

(VII) *Overhead cost increase.* Overhead cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "*C*" is the dollar amount of costs of rent of real property, postage, office supplies, normal gas losses, insurance, employees' uniforms, outside legal and accounting fees, and transportation costs directly attributable to propane, butane, and natural gasoline sales operations and not included in the calculation of increased product cost: *Provided,* That such costs are computed according to generally accepted accounting practices and historically and consistently applied.

* * * * *

2. Section 212.93(e) is amended to read as follows:

§ 212.93 Price rule.

* * * * *

(e) Notwithstanding the provisions of paragraph (a) of this section:

(1) If a seller charges prices for a particular product that result in the recoupment of less total revenues than the total amount of increased product costs of that product incurred during that month, the amount of increased product cost not recouped by a price adjustment in the subsequent month pursuant to paragraph (a) of this section may also be added to the May 15, 1973, selling prices of that product in a subsequent month at the time the selling prices are computed pursuant to paragraph (a) of this section. A seller shall calculate its amount of increased product cost of a particular product not recouped, since the most recent price increase after November 1, 1973 to include the following: (i) Any "increased product costs" not added to the May 15, 1973 selling price at the time of the most recent price increase implemented after November 1, 1973 multiplied by the volume sold since that price increase, plus (ii) increases in the weighted average unit cost above the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973 multipled by the volume of product purchased at each such increased product cost, less (iii) any decrease in the weighted average unit cost from the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973 multipled by the volume of product purchased at each such lesser cost. With respect to each covered product, when a seller calculates its amount of increased product cost not recouped under this paragraph, it shall calculate its revenues as though the greatest amount of increased product costs actually added to the May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling price of such covered product and included in the price charged to each class of purchaser; except that, where an equal amount of increased product cost is not included in the price charged to a purchaser because of a price term of a written contract covering the sale of such product which was entered into on or before September 1, 1974, such portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues.

(2) With respect to sellers of propane, butane, and natural gasoline beginning March 1, 1977, the amount of increased non-product cost calculated pursuant to paragraph (b)(4) of this section for propane, butane, or natural gasoline and not recouped by a price adjustment in the subsequent month pursuant to paragraph (b)(4) of this section may also be added to the May 15, 1973 selling price of propane, butane or natural gasoline at the time the selling prices are computed pursuant to paragraphs (a) and (b)(4) of this section.

[FR Doc.77-12466 Filed 4-27-77;2:34 pm]

Title 13—Business Credit and Assistance

CHAPTER V—REGIONAL ACTION PLANNING COMMISSIONS

ADMINISTRATIVE PROCEDURES

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The purpose of the regulations is to conform to recent statutory amendments (Pub. L. 94-188 and Pub. L. 94-487) to Title V of the Public Works and Economic Development Act of 1965, as amended. The amendments provide the Title V Regional Commissions with authority to develop and fund demonstration projects in energy, transportation, health and nutrition, education, and indigenous arts and crafts. They also revise the administrative procedures for the internal operation of the commissions, expand the criteria for the designation of regions to include certain single states and noncontiguous regions and update various Federal grant-in-aid programs enacted before September 30, 1979, which are eligible to be supplemented by grants.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Frances Pappas, Office of Regional Economic Coordination, U.S. Department of Commerce, 14th and "E" Streets NW., Washington, D.C. 20230 (202-377-5174).

SUPPLEMENTARY INFORMATION: Notice was given on December 21, 1976, at 41 FR 55553 of a proposal to amend Chapter V of Title 13 by revising Parts 500, 520, and 560, adding new Parts 551, 552, and 555 and reserving Parts 553 and 554.

Two responses were received with respect to the proposed regulations. The comments were seriously considered, and as a result, one addition has been made to these regulations as noted below.

DISCUSSION OF COMMENTS

Sections 551.9, 552.7, and 555.2. Comments were received recommending that community development corporations (CDCs) be included as eligible grant applicants under each of these sections since CDCs promote economic and social development and serve as a link between State and local developmental efforts. The recommendation was not accepted inasmuch as §§ 551.9(e) and 552.7(c) were determined to be broad enough in scope to include CDCs as well as other sub-State planning and development organizations.

Section 555.2 of the regulations is amended, however, to include a new paragraph (e) which reads, "Such other institutions or organizations permitted by law and approved by the commission." This language is identical to that contained in §§ 551.9(e) and 552.7(c).

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular No. A-107 and the interpretive guidelines issued by the Department of Commerce. It has been determined that these regulations do not constitute action requiring an inflationary impact statement.

In consideration of the foregoing, 13 CFR, Chapter V, is hereby amended as set forth below.

Effective date: These amendments are effective May 2, 1977.

ROBERT T. HALL,
Acting Special Assistant to the Secretary for Regional Economic Coordination.

PART 500—ECONOMIC DEVELOPMENT REGIONS

1. Section 500.3 is amended by revising paragraph (b) to read as follows:

§ 500.3 Criteria for designation.

* * * * *

(b) With the exception of Alaska and Hawaii and the Commonwealth of Puerto Rico and the Virgin Islands and the States of California and Texas, the region is within contiguous States, and

* * * * *

PART 520—REGIONAL COMMISSIONS

2. Section 520.1 is amended by designating the existing paragraph as "(a)" and by adding a new paragraph "(b)" to read as follows:

§ 520.1 Establishment.

(a) * * *

(b) If the Secretary finds that the State of Alaska or the State of Hawaii or the State of California or the State of Texas meets the requirements for an economic development region, he may at the request of the Governor of the affected State establish a Commission for such State.

3. Section 520.2 is amended by revising paragraph (b) as follows:

§ 520.2 Membership.

* * * * *

(b) The Federal Cochairman is appointed by the President, by and with the advice and consent of the Senate, and may have an alternate who is similarly appointed. The State member shall be the Governor. Each State member may have a single alternate appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff.

4. Section 520.3 is amended to read as follows:

§ 520.3 Initial meeting.

The Federal Cochairman, after appointment by the President and confirmation by the Senate, is authorized to call the initial organizational meeting of the regional commission at which time, among other things, the State members of the commission shall elect a State Cochairman from among their number for a term of not less than one year, and the commission may declare its establishment, adopt a charter listing its functions, and adopt resolutions governing the internal administration of the commission.

5. Section 520.4 is revised to read as follows:

§ 520.4 Voting.

(a) Decisions by a regional commission require the affirmative vote of the Federal Cochairman and a majority, or at least one if only one of two, of the State members.

(b) No decision involving commission policy, approval of regional development plans, implementing investment programs or allocating funds among the States may be made without a quorum of State members present.

(c) A State alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the State members is required to be present. No commission power or responsibility specified in paragraph (b) of this section, nor the vote of any commission member, may be delegated to any person not a commission member or who is not entitled to vote in commission meetings.

(d) A State's single designated alternate may vote in the absence of the Governor at a meeting at which a quorum of Governors is required, but the alternate does not count toward establishing a quorum.

(e) An alternate may vote in the event of the absence, death, disability, removal, or resignation of the State member or Federal Cochairman for which he is an alternate.

(f) The Federal Cochairman shall not vote in the election of a State Cochairman or on the determination of the share of administrative expenses to be contributed by each State.

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6. New Parts 551 and 552 are added to read as follows:

PART 551—REGIONAL TRANSPORTATION

Sec.
551.1 Authority and purpose.
551.2 Studies and investigations.
551.3 Regional transportation networks.
551.4 Transportation demonstration projects.
551.5 Grants for planning, construction, purchase of equipment and operation of demonstration projects.
551.6 Construction or equipment of any component of a regional transportation demonstration projects.
551.7 Project financing.
551.8 Limitation on funds.
551.9 Eligible grant applicants.
551.10 Transfer of funds.
551.11 Records retention.

AUTHORITY: 42 U.S.C. 3192; 42 U.S.C. 3211; Executive Order 11386 (December 28, 1967); and Department of Commerce Organization Order 15-5 (August 30, 1975).

§ 551.1 Authority and purpose.

Section 513 of the Act (42 U.S.C. 3192) authorizes each regional commission, with the assistance of the Secretary of Transportation, to conduct investigations and studies of the region's transportation needs, to make grants for the planning of regional transportation networks, and to make grants for the construction, purchase of equipment, and operation of transportation demonstration projects.

§ 551.2 Studies and investigations.

(a) Each regional commission, with the assistance of the Secretary of Transportation, is authorized to conduct and facilitate full and complete investigations and studies of the transportation needs of its economic development region established under section 501 (42 U.S.C. 3181) of the Act.

(b) Such studies and investigations should analyze the effectiveness of regional transportation systems for meeting purposes of the Act.

(c) Information gathered from such studies and investigations should determine the types of transportation facilities needed in the region and be of value in planning for such transportation facilities.

§ 551.3 Regional transportation networks.

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the planning of regional transportation networks.

(a) The plans for these transportation networks should develop the proper mix of all transportation modes so as to best serve the economic, social, and environmental interests of the region.

(b) As the regional commissions study and plan their transportation systems, they should not only plan new systems but should study existing transportation programs and attempt to integrate their plans with these ongoing transportation programs.

§ 551.4 Transportation demonstration projects.

A regional transportation demonstration project should meet the following requirements:

(a) Responds to an identified transportation need or problem in the region.

(b) Possesses innovative characteristics for the area or region.

(c) Has objectives which are realistically attainable.

(d) May provide a useful model for others to emulate.

(e) Attracts other resources to assist in meeting a part of the cost and the total costs shall be reasonable in relation to the need for the project and the benefits to be gained.

§ 551.5 Grants for planning, construction, purchase of equipment and operation of demonstration projects.

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the construction, purchase of equipment, and operation of transportation demonstration projects. Such funds:

(a) Should be used for projects which possess new or refined organizational, operational, or technical approaches to meet regional transportation needs.

(b) May be used for payment of operating deficits.

(c) Should not be used in lieu of private capital particularly to construct facilities although useful to the development of a particular resource of the various regions.

§ 551.6 Construction or equipment of any component of a regional transportation demonstration project.

(a) No grant for the construction or equipment for any component of a demonstration transportation project shall exceed 80 percent of such cost.

(b) The Federal contribution may be provided entirely from funds authorized under section 513 of the Act (42 U.S.C. 3192) or in combination with funds authorized under other Federal grant-in-aid programs for the construction of transportation facilities.

(c) The Federal portion of project costs shall not exceed 80 percent of project costs and funds authorized under section 513 of the Act may be used to increase the Federal share of any such project to 80 percent of the cost of such facilities.

§ 551.7 Project financing.

Grants under this part shall be made solely out of funds specifically appropriated for the purpose of carrying out Title V of the Act and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

§ 551.8 Limitation on funds.

In carrying out this part no regional commission shall expend more than $5,000,000 in any one fiscal year.

§ 551.9 Eligible grant applicants.

(a) States in the region, alone or with another member State, as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Local multijurisdictional or State public transportation authorities.

(d) State of federally licensed or certificated common carriers that the commission may approve.

(e) Such other institutions or organizations permitted by law and approved by the commission.

§ 551.10 Transfer of funds.

When the contribution is supplied by the commission and is provided in combinatio.. with funds available under other Federal grant-in-aid programs, the Federal Cochairman will, where appropriate, transfer funds for the construction, purchase of equipment, and operation (including payment of operation deficits) of such projects to the basic Federal grant agency administering the grant program or project being supplemented pursuant to a grant agreement between the Federal Cochairman and the appropriate official of the basic agency.

§ 551.11 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

PART 552—ENERGY DEMONSTRATION PROJECTS AND PROGRAMS

Sec.

552.1 Authority and purpose.
552.2 Regional energy policy.
552.3 Energy-related demonstration programs and projects.
552.4 Grants for demonstration programs and projects.
552.5 Limitation on funds.
552.6 Transfer of funds.
552.7 Eligible grant applicants.
552.8 Records retention.

AUTHORITY: 42 U.S.C. 3194; 42 U.S.C. 3211; Executive Order 11386 (December 28, 1967); and Department of Commerce Organization Order 15-5 (August 30, 1975).

§ 552.1 Authority and purpose.

Section 515 of the Act (42 U.S.C. 3194) authorizes each regional commission to carry out energy-related demonstration projects and programs. Each regional commission should develop a regionwide strategy for (a) anticipating the effects of alternative energy policies, and practices, (b) planning for accompanying growth and change so as to maximize social and economic benefits and minimize the social and environmental costs, and (c) implementing programs and projects to be carried out in the region by Federal, State and local government agencies in a coordinated way so as to better meet the special problems generated in the region by the Nation's energy needs and policies. Such special problems include those related to transportation, housing, community facilities and human services.

§ 552.2 Regional energy policy.

To formulate regional energy policies, the Federal Cochairmen and the regional commissions shall work closely with those Federal and State agencies having primary responsibility for developing national energy policy and basic energy research and development.

§ 552.3 Energy-related demonstration programs and projects.

Each regional commission is authorized to carry out energy-related demonstration projects and programs within its region, including programs and projects addressing the social, economic, and environmental impact of energy development, requirements, and utilization. An energy-related demonstration project should meet the following requirements:

(a) Responds to an identified energy impact or problem in the region.

(b) Possesses innovative characteristics for the area or region.

(c) Has objectives which are realistically attainable.

(d) May provide a useful model for others to emulate.

(e) Attracts other resources to assist in meeting a part of the cost and the total costs should be reasonable in relation to the need for the project and the benefits to be gained.

§ 552.4 Grants for demonstration programs and projects.

(a) Grants shall be made only to those projects which are developed through regional planning designed to identify the effects of regional resource development, requirements, utilization, and impact.

(b) The Federal contribution may be provided entirely from funds authorized under section 515 of the Act (42 U.S.C. 3194) or in combination with funds authorized under other Federal grant-in-aid programs.

§ 552.5 Limitation on funds.

In carrying out this part no regional commission shall expend more than $5,000,000 in any one fiscal year.

§ 552.6 Transfer of funds.

When the contribution is supplied by the commission and is provided in combination with funds available under other Federal grant-in-aid programs, the Federal Cochairman will, where appropriate, transfer funds for such projects to the basic Federal grant agency administering the grant program or project being supplemented pursuant to a grant agreement between the Federal Cochairman and the appropriate official of the basic agency.

§ 552.7 Eligible grant applicants.

(a) States in the region alone or with another member State as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Such other institutions or organizations permitted by law and approved by the commission.

§ 552.8 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

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8. Two new Parts, Part 553 and Part 554, are reserved as follows:

PART 553—HEALTH AND NUTRITION DEMONSTRATION PROJECTS [Reserved]

PART 554—EDUCATION DEMONSTRATION PROJECTS [Reserved]

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9. A new Part 555 is added to read as follows:

PART 555—INDIGENOUS ARTS AND CRAFTS DEMONSTRATION PROJECTS

Sec.
555.1 Authority and purpose.
555.2 Eligible grant applicants.
555.3 Limitation on funds.
555.4 Records retention.

AUTHORITY: 42 U.S.C. 3194; 42 U.S.C. 3211; Executive Order 11386 (December 28, 1967); and Department of Commerce Organization Order 15-5 (August 30, 1975).

§ 555.1 Authority and purpose.

Pursuant to section 515 of the Act (42 U.S.C. 3194), each regional commission is authorized to carry out demonstration projects within its region in connection with the development and stimulation of indigenous arts and crafts of the region.

§ 555.2 Eligible grant applicants.

(a) States in the region, alone or with another member State, as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Indian tribe, band, group, pueblo recognized by the Federal Government or by the States of the region in which the tribe, band, group, or pueblo is located.

(d) Nonprofit or tax supported organizations established to foster and encourage development of indigenous arts and crafts.

(e) Such other institutions or organizations permitted by law and approved by the commission.

§ 555.3 Limitation on funds.

In carrying out this part no regional commission shall expend more than $2,500,000 in any one fiscal year.

§ 555.4 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

PART 560—SUPPLEMENTS TO FEDERAL GRANTS-IN-AID

10. Section 560.7 is revised to read as follows:

§ 560.7 Definition of Federal grant-in-aid programs.

The term "Federal grant-in-aid programs" as used in this subpart means all Federal grant-in-aid programs in existence on or before September 30, 1979, assisting in the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; titles VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; and titles I and IX of the Public Works and Economic Development Act.

[FR Doc.77-12526 Filed 4-29-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-CE-9-AD; Amdt. 39-2883]

PART 39—AIRWORTHINESS DIRECTIVES
Cessna Models 421B and 421C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to certain Cessna Model 421B and 421C airplanes which requires visual inspection of the pilot's and co-pilot's windshields on these pressurized airplanes for proper installation, possible cracks and repair if necessary. This action is necessary to assure continued structural integrity of the windshields, the failure of which could result in injury to occupants of the airplane.

EFFECTIVE DATE: May 9, 1977. Compliance required within 50 hours' time in service after the effective date of this AD for aircraft having 50 hours' or more time in service or upon the accumulation of 100 hours' time in service for those aircraft having 49 hours' or less time in service.

ADDRESSES: Cessna Service Letter ME77-5, dated March 14, 1977, and the attachment thereto dated March 11, 1977, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; telephone (316) 685-9111.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: The FAA has received reports showing that the co-pilot's windshield on two Cessna Model 421B airplanes fractured and separated completely from the airplanes. Investigation and tests performed by Cessna have demonstrated that the failures were caused by cracks which initiated at certain critical windshield bolt holes in which the bolt was bearing against the acrylic windshield material. The FAA has concluded that possible cracking and separation of windshields from these airplanes is an unsafe condition which is likely to exist or develop in other airplanes of the same type design. Therefore, an AD is being issued requiring inspection of the windshields for proper installation, possible cracks and repair if necessary. The AD authorizes only those maintenance personnel that have been specially trained by Cessna or its designated representative to perform the required inspections and repairs. As an alternate means of compliance the AD provides provisions which allow continued use of the affected aircraft unpressurized until the inspections and necessary repairs can be accomplished. This AD was coordinated with the aircraft manufacturer prior to its issuance. The FAA has determined that there is an immediate need for a regulation to provide for the safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than thirty (30) days after its publication.

Accordingly, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended effective May 9, 1977, by adding the following new AD:

CESSNA: Applies to Models 421B (Serial Numbers 421B0301 thru 421B0970 except 421B0463, 421B0663 and 421B0962) and 421C (Serial Numbers 421C0001 thru 421C0272 except 421C0224, 421C0232, 421C0246, 421C0260, 421C0261 and 421C0264 thru 421C0271) airplanes

Compliance: Required as indicated, unless already accomplished.

To prevent separation of the pilot's or co-pilot's windshields from the aircraft, within 50 hours' time in service after the effective date of this AD for those aircraft having 50 hours' or more time in service or upon accumulation of 100 hours' time in service for those aircraft having 49 hours' or less time in service, accomplish either Paragraph A or B below:

A. Windshield Inspection and Repair: (1) Visually inspect the pilot's and co-pilot's windshield installation and if necessary, repair in accordance with Cessna Service Letter ME77-5, dated March 14, 1977, or later approved revisions and Windshield Inspection and/or Modification Attachment thereto dated March 11, 1977, or later approved revisions.

(2) Paragraph A(1) must be accomplished only by maintenance personnel that have been specially trained by Cessna Aircraft Company or its designated representative for this purpose.

NOTE.—Owners/operators should contact their local Cessna dealer to schedule their airplane into the nearest Cessna dealership having the specially trained personnel required to accomplish Paragraph A(1).

B. Unpressurized Aircraft Operation: (1) Move the cabin pressurization switch to the "unpressurized" position and place adhesive tape over the switch to prevent its movement to the "pressurized" position.

(2) Fabricate a placard having white 3/16 inch or larger letters on a red background reading:

"Do Not Pressurize Cabin".

(3) Install the placard fabricated in Paragraph B(2) just above or adjacent to the cabin pressurization switch and operate the aircraft in accordance with this limitation until Paragraph A is accomplished.

C. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective May 9, 1977.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)); sec. 11.81 of the Federal Aviation Regulations (14 CFR 11.81).)

The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on April 22, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-12415 Filed 4-29-77;8:45 am]

[Airspace Docket No. 77-EA-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of North Philadelphia, Pa. Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will establish additional controlled airspace (transition area) so as to protect helicopters using a new instrument approach procedure in the Philadelphia Terminal Area. The new airspace will be added to the present North Philadelphia, Pa. Transition Area.

EFFECTIVE DATE: 0901 GMT May 1, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFOMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Thursday, February 17, 1977, (42 FR 9683) which proposed to alter the North Philadelphia, Pa., Transition Area, so as to provide additional controlled airspace protection for IFR arrivals into the Philadelphia Terminal Area.

Interested parties were given 30 days in which to submit comments on the proposal. The Department of Transportation, State of New Jersey, objected to the establishment of additional airways for the procedures on the grounds that there would be an unsafe inter-mix of IFR and VFR traffic and, as well as a loss of airspace to acrobatic training. However, this rule only applies to the transition area to which DOT has no objection. There were no further objections.

Accordingly, and pursuant to the authority delegated to me by the Administrator, (14 CFR 11.69), § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is amended, effective 0901 GMT May 1, 1977, by adoption of the amendment as proposed.

(Sections 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on April 20, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by adding the following to the description of the North Philadelphia, Pa. 700-foot floor transition area:

"; within 5 miles each side of a 219° bearing and a 039° bearing from a point, 40°05'51" N., 74°49'49" W., extending from 6 miles southwest of said point to 12 miles northeast of said point."

[FR Doc.77-12416 Filed 4-29-77;8:45 am]

[Airspace Docket No. 77-CE-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area, at Humboldt, Nebraska

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700 foot transition area at Humboldt, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Humboldt, Nebraska, Municipal Airport, based on the Pawnee City, Nebraska, VORTAC.

EFFECTIVE DATE: June 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Alden C. Schneider, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Regional 601 East 12th Street, Kansas City, Missouri 64106, 816-374-3408.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Thursday, March 10, 1977 (42 FR 13303), which proposed to designate a transition area at Humboldt, Nebraska. Users of the Humboldt, Nebraska, Municipal Airport, requested that the FAA establish a public use instrument approach procedure to that airport. The FAA has determined that this request was appropriate and has established such an instrument approach procedure based upon the Pawnee City, Nebraska VORTAC. In that regard a transition area is being designated at Humboldt, Nebraska, based at 700 feet above the ground to encompass the flight of aircraft executing the new instrument approach procedure. No objections were received from this notice. Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977, (42 FR 440), is amended, effective 0901 G.m.t. June 16, 1977, by adding the following new transition area:

HUMBOLDT, NEBRASKA

That airspace extending upward from 700 feet above the surface within a five mile radius of the Humboldt Municipal Airport (latitude 40°09'50" N, longitude 95°55'55" W); within 1.75 miles each side of the 099° radial of the Pawnee City VORTAC, extending from the five mile radius to seven miles west of the airport.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by

Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on April 21, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc 77-12266 Filed 4-29-77;8:45 am]

[Docket No. 16745; Amdt. No. 91-137]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Incorporation by Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to incorporate by reference Annex 2 to the Convention on International Civil Aviation and make it a part of § 91.1 as provided by statute and regulation.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Leary, Air Carrier and General Operating Branch, Regulations and Enforcement Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-3081.

SUPPLEMENTARY INFORMATION: By virtue of § 91.1(b)(1), each person that operates a civil aircraft of United States registry outside of the United States is required, when over the high seas, to comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation (Annex 2) and with §§ 91.70(c) and 91.90 of Subpart B of Part 91. Annex 2 has not been published in the FEDERAL REGISTER and, because of the length and complexity of the Annex and because it is periodically amended, its publication as an appendix to Part 91 would be impractical and expensive.

As provided by statute (5 U.S.C. 552 (a)(1)) and the Regulations of the Office of the Federal Register (1 CFR Part 51), matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register. Approval for incorporation by reference of Annex 2 has been obtained from the Director of the Federal Register and is available in the FAA Rules Docket for examination by interested persons.

Annex 2 is currently available for inspection at the FAA Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591.

Since this amendment is necessary to make the Federal Aviation Regulations conform to 5 U.S.C. 552(a)(1) and 1 CFR Part 51, and does not impose an additional burden on any person, I find that notice and public procedure thereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended, effective May 2, 1977, by adding a new paragraph (c) to § 91.1 to read as follows:

§ 91.1 Applicability.

* * * * *

(c) Annex 2 to the Convention on International Civil Aviation, Sixth Edition—September 1970, with amendments through Amendment 20 effective August 1976, to which reference is made in this part is incorporated into this part and made a part hereof as provided in 5 U.S.C. 552 and pursuant to 1 CFR Part 51. Annex 2 (including a complete historic file of changes thereto) is available for public inspection at the Rules Docket, AGC-24, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. In addition, Annex 2 may be purchased from the International Civil Aviation Organization (Attention: Distribution Officer), P.O. Box 400, Succursale; Place deL'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2.

(Secs. 313(a) and 601 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) and 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 5 U.S.C. 552(a)(1).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on March 23, 1977. A copy of the incorporated material is on file in the FEDERAL REGISTER Library.

Issued in Washington, D.C., on April 21, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc.77-12269 Filed 4-29-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5821]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Amendments to Registration Form

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: As a result of its review of a revised simplified registration form for the offering of securities, the Commission has noted several areas requiring clarification or simplification. Consequently, the Commission amends the general instructions to a short form registration statement to indicate that it is not available for use by certain foreign private issuers, and the summary prospectus requirements for that form to permit the inclusion of certain statements of income. Also, an amendment is made to the form's general instructions and an undertaking concerning certain information which is required to be publicly disseminated. The changes are being made at this time so that qualifying registrants will have the benefit of the relaxation or clarification of requirements as quickly as possible.

EFFECTIVE DATE: April 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. 202-755-1750.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announces the adoption of amendments to Form S-7 (17 CFR 239.26) under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq.) concerning the availability of the form to certain issuers, summary prospectus requirements and certain information which must be publicly disseminated. The amendments are a relaxation of the present provisions of the form or in the nature of a clarification.

BACKGROUND

On December 20, 1976, the Securities and Exchange Commission announced the adoption of amendments to Form S-7 under the 1933 Act making the form available to a larger number of issuers.[1] As a result of its review of the revised form, the Commission is taking this opportunity to amend the general instructions to the form to preclude its use by certain foreign private issuers and also to amend the general instructions and an undertaking so that certain information need only be disseminated to common stockholders and holders of securities which are convertible into common stock. In addition, the Commission has amended the "Instructions As to Summary Prospectuses" for Form S-7 to revise the requirements regarding the inclusion of certain statements of income. Since this action represents a relaxation and a clarification of the form's provisions, the Commission finds that a significant additional burden is not being imposed upon registrants and that publication for comment pursuant to the Administrative Procedure Act of 1946 (5 U.S.C. 553) is unnecessary.

FOREIGN PRIVATE ISSUERS

The question has been raised as to whether all foreign issuers with securities listed on national securities exchanges regardless of their reporting obligations under the Securities Exchange Act of 1934 ("1934 Act") (15

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[1] Securities Act Release No. 5792 (December 20, 1976) (41 FR 56301).

U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) can use Form S-7, General Instruction A to Form S-7 might appear to permit any registrant with a class of securities registered pursuant to section 12(b) of the 1934 Act to use the form, assuming that all other conditions under Form S-7 are satisfied. The Division of Corporation Finance had consistently interpreted Form S-7 prior to its recent revision to be unavailable to foreign issuers that file annual reports on Form 20-K (17 CFR 249.320) with the Commission.[2] The rationale for the interpretation centered upon the type of information which was available from a foreign issuer's reports, usually on Form 20-K. This report does not require the caliber of information contained in Forms 8-K (17 CFR 249.308) and 10-K (17 CFR 249.310) and, when applicable, Form 10-Q (17 CFR 249.308a). Because the basis for abbreviated registration forms such as Form S-7 is found in the availability of extensive issuer information in 1934 Act reports on Forms 8-K, 10-K and 10-Q, when required, the Commission believes that the purposes for the 1933 Act could be frustated if an issuer with minimal information on file with the Commission could use Form S-7 or S-16 (17 CFR 239.27). Thus, Form S-7, as was the case prior to the recent amendments, is to be amended in order that it will not be permitted to be used by foreign issuers filing annual reports on Form 20-K. For the same reasons, those foreign issuers subject to section 13(a) or 15(d) of the 1934 Act required to file the same reports with the Commission as domestic issuers, i.e., Forms 8-K, 10-Q and 10-K, will be permitted to use Form S-7 or S-16 if all other conditions as to the use of the forms are satisfied. This position is also consistent with the prior administrative practice and the amendment to General Instruction A(a) clarifies the matter.

The Commission notes that there is support for this position in the language of the adopting release concerning the amendment of Form S-7, particularly in the emphasis which is placed upon 1934 Act reports and the availability of that information to prospective investors[3] as well as the absence therein of an affirmative statement that the prior administrative practice in this regard had been abandoned.

SUMMARY PROSPECTUSES

The Commission this day has also amended the "Instructions As to Summary Prospectuses" for Form S-7 by making Instruction 1(g) require either the information which is contained in Item 6 of Form S-1 (17 CFR 239.11) or that contained in Item 6 of Form S-7 except that such information in the latter case is not required to be separately reported upon by the independent public accountants. Generally, Item 6 of Form S-1 only requires a summary of operations for the registrant whereas the comparable Form S-7 requirements entails complete certified statements of income. In the past, for Form S-7 summary prospectus purposes, the Division of Corporation Finance has permitted an uncertified summary of operations to be used in lieu of the certified statements, upon the application of the registrant.[4] Consequently, the instruction change being adopted today merely simplifies the procedure by giving the registrant the option of including full statements or a summary of operations.

DISSEMINATION OF INFORMATION

The Commission has also amended General Instruction A(b) (3) and Undertaking D to Form S-7 so that the information contained in Part II of Form 10-K is only required to be disseminated to common stockholders and holders of securities convertible into common stock. The provisions referred to above as presently structured require dissemination of an annual report containing the information called for by rule 14a-3(b) (17 CFR 240.14a-3(b)) as well as Part II of Form 10-K, both before and after the filing of a registration statement on Form S-7. The purpose of this requirement is to ensure a wide distribution of information about issuers using Form S-7, when the issuer is subject to section 15(d) of the 1934 Act and not section 12. The importance of requiring the information of Part II of Form 10-K where an offering involves securities other than common stock or convertibles into common stock has been called into question. The argument presented is that the information in Part II of Form 10-K which requires disclosure of director and officer identification, background, remuneration and certain transactions is not of material importance to purchasers of debt securities and preferred stock. The Commission finds some merit to these arguments and is making appropriate revisions to the general instruction and undertaking previously referred to.

These modifications are taken pursuant to the Securities Act of 1933, particularly sections 6, 7, 10 and 19(a) thereof. The text of the amendments to Form S-7 follows.

ADOPTION OF AMENDMENTS

Text of amendments to Form S-7.— Form S-7 (17 CFR 239.26) is amended to read as follows:

§ 239.26 Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers.

GENERAL INSTRUCTIONS

A. *Rule as to use of form S-7.* Any registrant which meets the following conditions may use this form for registration of securities under the Securities Act of 1933:

(a) The registrant (1) has a class of securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934; or (2) is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities registered pursuant to section 12(g) of the above Act or is required to file reports pursuant to section 15(d) of the above Act. A foreign issuer comes within the purview of this instruction but only if it is required to file the same reports with the Commission under section 13(a) or 15(d) of the above Act as a domestic issuer.

(b) The registrant (1) has been subject to the requirements of section 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to sections 13, 14 or 15(d), as applicable, for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this form; (2) has filed in a timely manner all reports required to be filed during the twelve calendar months preceding the filing of the registration statement; and (3) if subject only to the requirements of section 15(d) of the Securities Exchange Act of 1934, has sent to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by rule 14a-3(b) and Part II of Form 10-K under the Securities Exchange Act of 1934 within the twelve calendar months preceding the filing of the registration statement, except that the information required by Part II of Form 10-K need only be provided to common stockholders and holders of securities convertible into common stock.

* * * * *

UNDERTAKINGS

A. to C. (No change.)

D. The following undertaking shall be included in the registration statement if the registrant is subject only to the requirements of section 15(d) of the Securities Exchange Act of 1934:

"The undersigned registrant hereby undertakes, so long as it remains subject to a duty to file under section 15(d) of the Securities Exchange Act of 1934 to send to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by rule 14a-3(b) and Part II of Form 10-K under the Securities Exchange Act of 1934, except that the information required by Part II of Form 10-K need only be provided to common stockholders and holders of securities convertible into common stock."

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[2] Under rule 401 (17 CFR 230.401), a registration statement is deemed filed upon the proper form unless the Commission objects prior to its effective date. On rare occasions where such an issuer improperly used Form S-7, the Division did not insist upon a refiling on Form S-1 (17 CFR 239.11) but permitted the registrant to use Form S-7 provided the disclosure required by Form S-1 was contained in the registration statement.

[3] 41 FR at 56301 n. 2, 56302 n. 7 and accompanying text.

[4] General Instruction F to Form S-7 permits the Commission, upon the registrant's request and where consistent with investor protection, to accept such statments. See also Instruction 3 to Instructions As To Summary Prospectus.

* * * * *

INSTRUCTIONS AS TO SUMMARY PROSPECTUSES

1. A summary prospectus used pursuant to rule 434A (17 CFR 230.434a) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) to (f) (No change.)

(g) Item 6 except that the information is not required to be separately reported upon by the independent accountants, or the information required by Item 6 to Form S-1 (17 CFR 239.11);

(h) to (k) (No change.)

2. to 3. (No change.)

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 15, 1977.

[FR Doc.77-12417 Filed 4-29-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER S—CONSTRUCTION

PART 219—1976–1977 EMERGENCY DROUGHT ASSISTANCE AND DEFERMENTS

Establishment of New Part

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: These rules add a new part to the Code of Federal Regulations which implements the Emergency Drought Act of 1977. These new regulations provide guidelines for obtaining financial assistance to remedy the effects of actual or prospective substantial economic injury resulting from the 1976–77 drought; includes short-term actions to increase water supplies and to repair, replace and improve the affected water supply facilities on Indian Irrigation Projects; and actions to lessen drought damage to Indian fisheries.

DATES: This rule is effective April 7, 1977 and expires on September 30, 1977.

ADDRESS: Send comments for consideration in future modifications to: Commissioner of Indian Affairs, Attention: Charles P. Corke, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Charles P. Corke, same address as above, telephone number 202—343–2287.

SUPPLEMENTARY INFORMATION: Legislation to provide temporary authorities to the Secretary of the Interior (acting through the Bureau of Reclamation and the Bureau of Indian Affairs) to facilitate emergency actions to mitigate the impacts of the 1976–77 drought was enacted by the Congress and signed by President Carter on April 7, 1977. The legislation provides the authority to appropriate $100 million to augment, manage, and conserve water supplies for irrigation farming operations on projects constructed or funded under Reclamation law, Indian irrigation projects constructed by the Secretary, and irrigation projects financed with non-Federal funds. The objective is to mitigate losses and damages due to the 1976–77 drought period.

Under the Act, the funds may be used to (a) augment water supplies in 1977 by permitting Federal Reclamation Projects and Indian Irrigation Projects constructed by the Secretary to undertake construction management and conservation activities to alleviate the impact of the 1976–77 drought, (b) establish a water bank to assist water users to purchase water from willing sellers including producers of lower value annual crops and redistribute such available water supplies for the maintenance of higher value perennial crops, foundation dairy and beef cattle herds and other breeding stock and other uses as appropriate; and (c) to conduct studies to identify opportunities to augment, utilize or conserve water supplies and evaluate potential facilities to mitigate the effect or recurrence of the current emergency and make recommendations to the President and Congress.

The Secretary's authority under the Emergency Fund Act of June 26, 1948, is broadened to cover actions because of the 1976–77 drought and allows projects financed with non-Federal funds to obtain reimbursable loans from the expanded Emergency Fund for drought measures. However, the funds for non-Federal projects are limited to 15 percent of the available funds, and not more than $1 million may be expended for any individual non-Federal contracting entity.

During fiscal year 1977, a State water resource agency may obtain emergency funds up to $1 million in a given State for its drought emergency programs that provide benefits of a widespread and diffused nature, but the total for this program is limited to 5 percent of the available funds. Expenditures for those State programs are nonreimbursable.

Funds are authorized up to $10 million on a nonreimbursable basis to purchase or to acquire entitlement to water from an available source to mitigate damages to fish and wildlife resources caused by drought.

The Secretary is authorized to defer payment of construction installments and operation and maintenance costs owed to the United States by a contracting entity in calendar year 1977 because of the financial hardship attributable to the drought.

NOTE.—As specified in Sec. 5 of the Act, "actions taken pursuant to this Act are in response to emergency conditions and depend for their effectiveness upon their completion prior to or during the 1977 irrigation season and, therefore, are deemed not to be major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969." (83 Stat. 852, as amended, 42 U.S.C. 4321).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and Office of Management and Budget (OMB) Circular A-107.

The authority for the Secretary to issue these regulations is contained in Pub. L. 95–18.

Subchapter S, of Chapter I of Title 25 of the Code of Federal Regulations is amended by adding a new Part 219, to read as follows:

Sec.
219.0 General.
219.1 Objective.
219.2 Applicant eligibility.
219.3 Definitions.
219.4 Construction, management and conservation activities.
219.5 Water bank program.
219.6 Deferment of 1977 payments.
219.7 Programs pursuant to the Emergency Act of 1948.
219.8 Fish and wildlife mitigation procedures.
219.9 Studies and reporting requirements.
219.10 Disclaimer.

AUTHORITY: Pub. L. 95–18.

§ 219.0 General.

This Part 219 prescribes the policies, procedures, and authorizations of the Bureau of Indian Affairs for making funds available to Indian Irrigation Projects constructed by the Secretary, deferring payments and assisting Tribal fisheries pursuant to the Emergency Drought Act of 1977.

§ 219.1 Objectives.

The basic objective is to provide financial assistance to Indian Irrigation Projects constructed by the Secretary to drill wells, install pumps in wells, drains, lakes and streams; build diversion structures for providing additional water; install water conservation measures such as replacing open ditches with pipes and lining of canals and laterals; implement improved system operations and irrigation practices; defer installment payments on construction or operation and maintenance costs owed to the United States for 1977 by existing contracting entities due to hardship conditions created by the 1976–77 drought; and take all other appropriate actions to alleviate the effects of the 1976–77 drought.

§ 219.2 Applicant eligibility.

(a) Applicants eligible for financial assistance for construction, management and conservation activities are Indian irrigation projects constructed by the Secretary located in an area experiencing water shortage due to the 1976–77 drought.

(b) Loans requested by individuals on Indian irrigation projects constructed by the Secretary shall be processed under existing authority of the Department of Agriculture.

(c) Assistance for acquisition and transportation of water (water bank) and for expenditure from the emergency fund created by the Act of June 26, 1948 (62 Stat. 1052) will be processed under Part 423 of Title 43 of the Code of Federal Regulations promulgated by the Bureau of Reclamation.

§ 219.3 Definitions.

(a) *Act*. The Emergency Drought Act of 1977.

(b) *Commissioner*. The Commissioner of the Bureau of Indian Affairs.

(c) *Secretary*. The Secretary of the Interior.

(d) *Drought*. The 1976–77 drought.

(e) *Contracting entity*. An Indian Tribe utilizing contracting procedures provided in Part 271 of this Title, "Contracts under Indian Self-Determination Act," (Pub. L. 93-638, 25 U.S.C. 450).

(f) *Indian tribe*. Any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony or Community which is federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(g) *Indian irrigation projects constructed by the Secretary*. Any Irrigation Project within an Indian Reservation constructed by or under the direction of the Secretary or constructed by Indians or Indian Tribes utilizing funds advanced by the Secretary for that purpose. An entity such as the San Carlos Indian Irrigation Project will be treated as if it were entirely within an Indian Reservation for purposes of these rules.

§ 219.4 Construction, management and conservation activities.

(a) The Secretary is authorized to make reimbursable and non-reimbursable funds available to Indian Irrigation Projects constructed by the Secretary for them to undertake such activities as the drilling of wells; installing pumps in wells, drains, lakes, and streams; building diversion structures for providing additional water; installing water measuring devices; implementing improved system operations and irrigation practices; and other appropriate actions to alleviate the effects of the 1977 drought.

(b) Where reimbursable funds are provided, Indian lands shall be treated in accordance with the Act of July 1, 1932 (25 U.S.C. 386a), commonly known as the Leavitt Act, which provides "* * * the collection of all construction costs against any Indian-owned lands within any government irrigation project is hereby deferred, and no assessments shall be made on behalf of such charges against such lands until the Indian title thereto shall have been extinguished * * *" (47 Stat. 564).

(c) Applications for financial assistance shall include appropriate information as follows:

(1) Identification of tribal entity with name, address, telephone number and title of the contact official;

(2) Identification of plans to construct or install facilities and the expected completion date;

(3) Relevant data, records or statements supporting the need;

(4) A resolution setting forth the funding needs and purposes;

(5) Other relevant supporting data or justification.

(d) Applications must be postmarked no later than June 1, 1977 to be eligible under the initial allocation of funds. Applications postmarked after June 1, 1977 will be considered within remaining fund availability.

(e) All facilities obtained or constructed must be installed and operational on or before November 30, 1977.

(f) Financial assistance for facilities on Indian Irrigation Projects constructed by the Secretary containing both land in fee title and Indian land held in Trust will be handled as follows:

(1) The ratio of each category of land—Trust or fee—to the total project acreage and the per acre cost will be determined.

(2) Funds expended on behalf of Indian Trust land will be either nonreimbursable or, if reimbursable, collection will be deferred under terms of the Leavitt Act.

(3) Funds expended on behalf of fee land will be reimbursable and considered as an interest free loan. The loan will be repaid in annual installments without interest within 5 years beginning not later than the first year following the next year of normal water supply, as determined by the Secretary or his designee. In the event the facilities provided generate benefits which are usable beyond 1977, the repayment period for those items may be established beyond 5 years beginning not later than the first year following the next normal water supply as determined by the Secretary or his designee; however, such repayment period shall be based upon the payment capacity of the water users, or the estimated useful life of the facilities whichever produces a shorter repayment period.

(g) Estimated costs associated with pumping water from underground aquifers, dead pool storage, rivers, drains, etc. may be capitalized and included in reimbursable loans if such costs will be in excess of the reasonable ability to pay such operation and maintenance costs as they occur.

(h) Repayment contracts for reimbursable loans will be developed separately and apart from existing repayment contracts. The document will cover the terms and conditions for repayment specified above and will be approved by the appropriate Area Director of the Bureau of Indian Affairs on behalf of the Secretary following review and sufficiency of the form by the Department of the Interior Field or Regional Solicitor.

§ 219.5 Water bank program.

Indian Irrigation Projects constructed by the Secretary are eligible to participate in the water bank provisions of the Act. Rules for participation are contained in Parts 423.5–423.9 of Title 43 of the Code of Regulations promulgated by the Bureau of Reclamation.

§ 219.6 Deferment of 1977 payments.

(a) The Secretary or his designee may defer payments for construction installments or operation and maintenance costs owed to the United States by non-Indian water users on Indian Irrigation Projects constructed by the Secretary by a showing of hardship conditions related to the 1976–77 drought.

(b) Deferral of payment or payments of individual non-Indian water users or groups of users with similar circumstances will be analyzed on a case-by-case basis taking into account ability to pay the 1977 payment or payments based upon a financial showing of hardship related to the 1976–77 drought.

(c) The application for a deferment action shall include appropriate information as follows:

(1) Identification of name or names, address, and telephone number;

(2) Amount and type of 1977 payment or payments requested for deferral;

(3) Justification for the needed deferment related to the 1976–77 drought conditions;

(4) Relevant financial data, records, or statements which demonstrate or support the need for financial relief;

(5) A statement committing to repay the deferment caused by the application;

(6) Other relevant and supporting data or justification.

(d) Construction installments or operation and maintenance costs owed to the United States for 1977 may be deferred as provided in (a) and (b) above. Such deferment action granted will be documented by a contract containing the following conditions:

(1) Beneficiaries who receive the relief generally will repay the deferment. Any deferred payment or payments shall be rescheduled for repayment in annual installments, along with current payments, as soon as practicable within the water users payment capacity. The initial payment for the deferred amount shall begin not later than the first year following the next year of normal water supply, as determined by the Secretary or his designee. Such deferred payments may be added to the end of the repay-

ment period if necessary to stay within payment capacity or capability.

(2) Provisions will be included providing for repayment of the deferred installment earlier than the negotiated time period.

(3) The contract form will be simplified to the extent practicable but will properly reference existing contracts, amendments, or supplements. No new terms or conditions will be added except those required to repay the deferred amount and will be negotiated based on the criteria set forth in this section.

(4) Contracts meeting the above criteria will be approved by the appropriate Area Director of the Bureau of Indian Affairs in behalf of the Secretary following review of the legal sufficiency of such contracts by the Solicitor.

§ 219.7 **Programs pursuant to the Emergency Fund Act of 1948.**

Indian Irrigation Projects constructed by the Secretary are eligible to participate in programs administered by the Bureau of Reclamation under the Emergency Fund Act of 1948 (62 Stat. 1052) as authorized and broadened by this Act. Rules for participation are contained in §§ 423.14–423.17 of Title 43 of the Code of Federal Regulations promulgated by the Bureau of Reclamation.

§ 219.8 **Fish and wildlife damage mitigation procedures.**

(a) Non-reimbursable funds up to $10 million may be expended by the Secretary to purchase or otherwise acquire available water or entitlement to water to mitigate damage to fish and wildlife resources caused by the 1976–77 drought.

(b) Applications from Tribes must be received by June 1, 1977 in order to be considered in the initial allocation of funds. The need for action must be attributable to the 1976–77 drought. Area Directors of the Bureau of Indian Affairs shall contact prospectively eligible Tribes to ascertain needs. If a need exists the Area Director shall assist the Tribe to find a solution and to prepare an application for funding under this section. The Area Director shall submit any applications received to the Commissioner with recommendations for consideration. Timely applications from Indian Tribes will be considered by the Secretary simultaneously with applications received by the Bureau of Reclamation from other entities.

(c) The application for non-reimbursable funds pursuant to this section shall include appropriate information as follows:

(1) Identification of the Tribe together with the name, address, telephone number and title of the contact official.

(2) Identification of the water acquisition need and plans, the quantity of water involved, the cost, the benefits justifying the expenditure and other relevant information.

§ 219.9 **Studies and reporting requirements.**

(a) A detailed report on expenditures and accomplishments under the Act will be submitted to the President and the Congress on or before March 1, 1978.

(b) The Secretary is authorized and directed

> "to undertake expedited evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of the current emergency and make recommendations to the President and to the Congress evaluating such potential undertaking including, but not limited to, wells, pumping plants, pipelines, canals, and alterations of outlet works of existing impoundments."

Proposals by Tribes and/or water-users are encouraged and may be submitted to the appropriate Area Director.

§ 219.10 **Disclaimer.**

Actions taken or water used pursuant to this Act do not modify, alter, or otherwise affect existing Federal, Indian, State, local entity, or individual rights to the use of water nor modify the terms of any interstate compact.

CECIL D. ANDRUS,
Secretary.

APRIL 22, 1977.

[FR Doc.77-12482 Filed 4-29-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7484]

PART 301—PROCEDURE AND ADMINISTRATION

Delivery of Refund Checks in Litigated Cases

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains an amendment to the regulations relating to authority to make credits or refunds. The amendment identifies who will be responsible for delivering a refund check to the taxpayer or the counsel of record in a United States district court proceeding. This change is necessary because the Department of Justice has revised its procedures for delivery of refund checks in the United States district court proceedings.

DATE: This amendment to the regulations applies to claims reduced to judgment or settled in the course of or as a result of litigation after March 31, 1977.

FOR FURTHER INFORMATION CONTACT:

John H. Parcell of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T) 202-566-3328.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains an amendment to the Income Tax Regulations (26 CFR Part 301) under section 6402 of the Internal Revenue Code of 1954, relating to authority to make credits or refunds. Previously, checks paying claims reduced to judgment or settled in the United States district courts had to be sent to the appropriate United States attorney. The United States attorney was then responsible for delivery of the check to the taxpayer or the counsel of record in the court proceeding. After March 31, 1977, the Tax Division, Department of Justice, will be responsible for delivery of these refund checks. Consequently, they will be sent to the Assistant Attorney General, Tax Division, Department of Justice rather than to the United States Attorney.

DRAFTING INFORMATION

The principal author of this regulation was John H. Parcell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations.—Accordingly, the Income Tax Regulations (26 CFR Part 301) are amended as set forth below:

Section 301.6402-2 is amended by revising paragraph (f)(2) to read as follows:

§ 301.6402–2 **Claims for credit or refund.**

* * * * *

(f) *Mailing of refund check.* * * *

(2) Checks in payment of claims which have either been reduced to judgment or settled in the course or as a result of litigation will be drawn in the name of the person or persons entitled to the money and will be sent to the Assistant Attorney General, Tax Division, Department of Justice, for delivery to the taxpayer or the counsel of record in the court proceeding.

* * * * *

The provisions contained in this Treasury decision relate solely to rules of agency procedure. For this reason, it is not necessary to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitations of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Approved: March 31, 1977.

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-12452 Filed 4-29-77;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

SUBCHAPTER M—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. ATF-41]

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

PART 181—COMMERCE IN EXPLOSIVES

Black Powder

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Postponement of Effective Date.

SUMMARY: The Department of the Treasury is postponing the effective date of regulations concerning black powder, in order to allow affected persons additional time to familiarize themselves with the new requirements and to take necessary actions to comply.

DATE: Effective date is postponed until May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Wayne Miller, (202) 566-7626.

SUPPLEMENTARY INFORMATION: On January 28, 1977, the Bureau of Alcohol, Tobacco and Firearms published regulations [43 FR 5350, January 28, 1977] amending 27 CFR Part 178 (Commerce in Firearms and Ammunition) and Part 181 (Commerce in Explosives) to implement Pub. L. 93-639 concerning black powder. The effective date of the regulations was delayed for ninety days, until April 28, 1977. However, based on information received, additional time is needed for affected persons to become familiar and comply with the new provisions. Therefore, the effective date is delayed an additional fourteen days, until May 12, 1977.

Signed: April 27, 1977.

REX D. DAVIS,
Director.

Approved: April 27, 1977.

BETTE ANDERSON,
Under Secretary.

[FR Doc.77-12604 Filed 4-29-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE

[FRL 719-4]

PART 33—SUBAGREEMENTS

Minimum Standards for Procurement Under EPA Grants

AGENCY: Environmental Protection Agency.

ACTION: Amendment to interim rule.

SUMMARY: This amendment changes the effective date of the interim subagreement regulations to allow additional time to review comment received.

EFFECTIVE DATE: June 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0860.

Interim subagreement regulations were promulgated by the Environmental Protection Agency on February 8, 1977 (42 FR 8089) with an effective date of March 31, 1977, which was subsequently extended to May 1, 1977 (42 FR 16777). By this action, the effective date of the regulations is changed to June 30, 1977.

Dated: April 26, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-12534 Filed 4-29-77;8:45 am]

SUBCHAPTER H—OCEAN DUMPING

[FRL 721-5]

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

Final Designation of Site

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule establishes an approved ocean dumping site for high temperature shipboard incineration of Herbicide Orange.

The Air Force had applied for an ocean incineration permit for the disposal of its remaining stocks of Herbicide Orange. The site was selected because of its location in a remote area of the Pacific and its logistical proximity to Johnston Island where the bulk of the material to be incinerated is located.

EFFECTIVE DATE: May 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), EPA, 401 M Street SW., Washington, D.C. 202-245-3051.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1412 (hereafter "the Act") gives the Administrator of the Environmental Protection Agency (EPA) the authority to designate sites where ocean dumping may be permitted. The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated in accordance with the requirements of, and by publication in, this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.).

On March 24, 1975, EPA published (40 FR 13004) a proposed designation of an ocean dumping site in the tropical sea west of Johnston Island for use under certain controlled conditions for high temperature shipboard incineration of Herbicide Orange.

Public comment period for the proposed site designation expired on April 23, 1975. No comments on the proposed designation were received by EPA.

Public hearings were held in Honolulu, Hawaii, and San Francisco, California, on April 25 and 28, 1975, respectively, to consider the application of the Air Force to incinerate Herbicide Orange. At those hearings the Air Force requested that the proceedings be recessed pending the study of reprocessing Herbicide Orange into usable pesticide compounds. The hearing was to be reconvened in Washington, D.C., on ten days' notice should the applicant determine that the reprocessing alternative was infeasible and that incineration at sea was the more appropriate disposal alternative.

On March 25, 1977, EPA published (42 FR 16175) a notice of reconvening the public hearing on the Air Force's application for a permit to incinerate Herbicide Orange at sea. This reconvened hearing was held on April 7, 1977, at EPA Headquarters in Washington, D.C. Research results included in the hearing record indicate that the plume, containing hydrochloric acid fumes, can be kept from touching down on the incinerator vessel if sufficient area is available for maneuvering. To allow this in this area of relatively constant easterly winds, the east-west dimension of the dump site has been increased by 60 nautical miles. This is done solely to increase crew safety aboard the incinerator vessel. A final Environmental Impact Statement prepared by the Air Force relating to the proposed incineration has been filed with the Council on Environmental Quality.

The site will be used solely for the at sea incineration of Herbicide Orange by the United States Air Force aboard the *M/T Vulcanus*, owned and operated by Ocean Combustion Service, and the period of use will be from May 15, 1977, to September 30, 1977. The designation of this site will be withdrawn after this period of use.

The proposed site designation with the modification noted above is hereby adopted with the addition of use and period of use specifications and is set forth below, effective May 15, 1977.

(33 U.S.C. 1412, 1418.)

Dated: April 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, paragraph (b) of § 228.12 is amended by adding subparagraph (2), an ocean incineration site as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(2) Herbicide Orange Incineration Site—Headquarters. Location—Latitude and Lon-

gitude—15°45′ to 17°45′ north latitude; 171°30′ to 173°30′ west longitude.

Size—14,400 sq. n.mi.

Depth—greater than 15,000 feet.

Use—solely for at sea incineration of Herbicide Orange by the United States Air Force aboard the *M/T Vulcanus*, owned and operated by Ocean Combustion Service.

Period of Use—May 15, 1977, to September 30, 1977. The designation of this site will be withdrawn after this period of use.

[FR Doc.77-12430 Filed 4-29-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

[FRL 692-7]

PART 15-3—PROCUREMENT BY NEGOTIATIONS

Subpart 15-3.8—Price Negotiation Policies and Techniques

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action deletes an Environmental Protection Agency (EPA) regulation that covers the selection of contractors for competitive contracts. The intended effect of this action is to remove an out-of-date EPA regulation.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

David S. Taylor, Contracts Policy and Review Branch (PM-214), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0900.

SUPPLEMENTARY INFORMATION: New internal rules of procedure relating to the composition and conduct of source evaluation boards and panels convened for the purpose of evaluating offers and making recommendations to source selection officials are in the process of development and testing.

It is the general policy of the EPA to invite comments regarding the development of proposed rules; however, this action consists only of the deletion of a superseded procedure and no purpose would be served in inviting comments.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Dated: April 1, 1977.

DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency.

The Table of Contents for Part 15-3 is revised to provide that §§ 15-3.805 and 15-3.805-1 are reserved as follows:

Sec.
15-3.805 [Reserved]
15-3.805-1 [Reserved]

1. Section 15-3.805 is revised to delete the caption and reserve the section as follows:

§ 15-3.805 [Reserved]

2. Section 15-3.805-1 is revised to delete the caption and text and reserve the section as follows:

§ 15-3.805-1 [Reserved]

[FR Doc.77-12537 Filed 4-29-77;8:45 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 4—SERVICE OF PROCESS

Service of Process Served on or Delivered to Secretary

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The regulations of the Department of Health, Education, and Welfare, relating to the service of process, are being amended to reflect the fact that the Office of General Counsel, and the persons in that office who are authorized to accept service of process, have recently moved their office. The official mailing address for the Secretary of Health, Education, and Welfare, remains the same.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary M. Goggin, Office of General Counsel, 330 Independence Avenue, NW., Washington, D.C. 20201, 202-245-7743.

SUPPLEMENTARY INFORMATION: Because this amendment is technical in nature, reflecting solely the change in office location, no comment from the public is feasible.

Accordingly, 45 CFR Part 4 is amended as follows:

1. By revising § 4.1 to read as follows:

§ 4.1 Service of process required to be served or delivered to Secretary.

Summons, complaints, subpoenas and other process which are required to be served on or delivered to the Secretary of Health, Education, and Welfare shall be delivered to the Deputy General Counsel, the Secretary to the Deputy General Counsel, or the Secretary to the General Counsel, by mail at 330 Independence Avenue, SW., Washington, D.C. 20201 or by personal service at 200 Independence Avenue, SW., Washington, D.C. 20201. The persons above designated are authorized to accept service of such process.

Dated: April 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-12450 Filed 4-29-77;8:45 am]

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6802-5a]

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Non-Federal Share Contribution; Eligibility for Waiver of Increase

Correction

In FR Doc. 77-12003 appearing at page 21485, in the issue for Wednesday, April 27, 1977, make the following correction. In the middle column, the effective date should read, April 27, 1977.

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-133]

PART 148—SOLIDS IN BULK

Metal Borings, Shavings, Turnings, and Cuttings

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule making amends the regulations for shipping metal borings, shavings, turnings, and cuttings in bulk on vessels. Shipboard carbon dioxide systems are ineffective in controlling fires in these cargoes. Consequently, the requirement that a hold in which these cargoes are stowed must have a carbon dioxide or equivalent fire extinguishing system is deleted.

DATES: This amendment is effective on July 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Grenier, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was published in the FEDERAL REGISTER on August 1, 1975 (40 FR 32341). Interested persons were invited to submit written views, data, or comments to the Coast Guard before September 15, 1975. Two comments were received. One supported the proposal; the other opposed the proposal and recommended that no change be made to the existing regulations.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Mr. William Boyce, Project Manager and LT William Kerivan, Project Counsel.

DISCUSSION OF COMMENT

The opposing commenter indicated that his records showed that a number of vessels contained or suppressed heating of metal turnings by the application carbon dioxide. He cited his records as showing that, to control heating of cargoes of turnings, vessels without carbon dioxide systems had to proceed to ports of refuge and usually had to flood their holds with water, endangering their stability. He also questioned the validity of the small scale tests conducted by the Coast Guard.

The Coast Guard has re-examined its proposal in light of the opposing comments. The opposing commenter's recommendations were not adopted for the following reasons:

(1) Coast Guard records contain numerous cases in which cargoes of metal borings, shavings, turnings, or cuttings heated spontaneously after being loaded. Most of these reached a peak temperature after several hours or days and then began to cool. There is no evidence that the application of carbon dioxide would have changed this heating and cooling process. In addition, there were several

cases in which fires in bulk cargoes of metal turnings were not extinguished despite the application of large amounts of carbon dioxide. In these cases, it was necessary to unload the overheated cargoes or to flood the holds with water.

(2) The conditions and results of the Coast Guard tests clearly demonstrated that practical amounts of carbon dioxide are ineffective in controlling fires in metal cargoes. These tests were conducted at the U.S. Coast Guard Fire and Safety Test Facility, Mobile, Alabama, to determine which agents were equivalent to carbon dioxide in extinguishing fires in bulk metal cargoes. The test sample was twelve tons of metal turnings in an 8 foot by 8 foot by 12 foot steel container which was insulated to simulate the larger volume of a ship's hold. Carbon dioxide, Halon 1301, and foam were applied to the burning sample. None of these agents extinguished the fire. The fire was extinguished only by the use of a large quantity of water to cool the hot metal.

The application of a large amount of water could endanger the stability of a vessel but, as the tests show, that is the only effective method for controlling a metal fire. The possible danger to stability from flooding a hold to control a metal fire is no reason for requiring an ineffective carbon dioxide fire extinguishing system. The heat method of controlling a metal fire is to unload the cargo, if conditions permit.

Since the opposing commenter provided no detailed information concerning specific fires which would refute the findings of the review or tests by the Coast Guard, and offered no evidence that carbon dioxide or any other agent is effective on fires involving metal borings, shavings, turnings, and cuttings, the Coast Guard is deleting the regulation.

The regulation to be deleted was codified as 46 CFR 146.27-28(b)(1) when the notice of proposed rule making was issued. In the FEDERAL REGISTER issue of June 10, 1976 (41 FR 23404) it was recodified without change as 46 CFR 148.04-13(a)(1).

§ 148.04-13 [Amended]

In consideration of the foregoing, Part 148 of Title 46, Code of Federal Regulations is amended by deleting and reserving § 148.04-13(a)(1).

(46 U.S.C. 170; 49 U.S.C. 1655(b)(1) and 49 CFR 1.46(b).)

Effective Date: This amendment is effective on July 31, 1977.

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 21, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-12557 Filed 4-29-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER X—ADMINISTRATION OF THE EMERGENCY NATURAL GAS ACT OF 1977

[General Order No. 7]

PART 1000—REGULATIONS UNDER THE THE EMERGENCY NATURAL GAS ACT OF 1977

Emergency Regulations

AGENCY: Administrator-Emergency Natural Gas Act of 1977.

ACTION: Final rule.

SUMMARY: This is an amendment to the General Orders issued by the Administrator of the Emergency Natural Gas Act which were republished and codified on April 25, 1977. This order amends § 1000.1, Definitions by adding Paragraphs (a)(10), (a)(11), and (a)(12). This order adds a new § 1000.9, "Allocation of Charges for Emergency Purchases." This order applies to interstate pipeline companies who purchased natural gas either as an agent for its customers or for its general system supply. It allocates these charges in accordance with the type of purchase involved. The Task Force has determined that this will facilitate the purchase of natural gas.

EFFECTIVE DATE: April 22, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Paul Douglas, Federal Power Commission, Room 9200, 825 North Capitol Street, NE., Washington, D.C. 20426. (202-432-1212).

SUPPLEMENTARY INFORMATION: The Emergency Natural Gas Act of 1977 (Pub. L. 95-2) 91 Stat. 4 (1977), provides in section 7 (91 Stat. 4, 8) for the allocation of charges paid for deliveries under Section 4 (91 Stat. at 5-7) or for purchases or deliveries under Section 6 (91 Stat. at 7-8) to the local distribution companies receiving such gas from an interstate pipeline. This order allocates these charges in the following manner:

(1) All charges (including applicable transportation charges) attributable to gas purchased by an interstate pipeline as agent for certain of its customers shall be billed to those customers receiving such gas in proportion to the volumes received by each customer.

(2) All charges (including applicable transportation charges) attributable to gas purchased for general system supply shall be billed to all customers served by the interstate pipeline in proportion to the volumes received by each customer in accordance with the pipeline's effective Federal Power Commission (FPC) curtailment plan, as implemented during the billing period.

Pursuant to section 7 of the Act and the authority granted to me by the President in Executive Order No. 11969 (February 2, 1977), Part 1000 of Chapter X of Title 18 of the Code of Federal Regulations is amended by adding Paragraphs (a)(10), (a)(11), and (a)(12) to § 1000.1, Definitions and § 1000.9 Allocation of charges for emergency purchases, effective on the date of issuance of this order.

(1) Section 1000.1, Definitions, Chapter X, Title 18 of the Code of Federal Regulations is amended to add Paragraphs (a)(10), (a)(11), and (a)(12) as follows:

§ 1000.1 Definitions.

* * * * *

(a)(10) "Effective FPC curtailment plan" means any plan by which an interstate pipeline curtailed deliveries to its customers during the period of the Act whether or not such plan has been finally approved by the FPC.

(a)(11) "Billing period" means the calendar month or similar period on which an interstate pipeline bills its customers in accordance with its tariff on file with the FPC.

(a)(12) "Section 6 gas" means any and all natural gas purchased pursuant to the authority of Section 6(a) of the Act.

(2) That Part 1000, Chapter X, Title 18 of the Code of Federal Regulations is amended to add § 1000.9, Allocation of Charges for Emergency Purchases as set out below:

§ 1000.9 Allocation of charges for emergency purchases.

(a)(1) If curtailment under the pipeline's effective FPC curtailment plan is on a daily basis, the pipeline shall allocate its available gas supplies, including Section 6 gas, on a daily basis.

(2) If curtailment under the pipeline's effective FPC curtailment plan is on a monthly or seasonal basis, the pipeline shall allocate its available gas supplies, including Section 6 gas, during each billing period on such basis. The allocation shall reflect the effect of each change in the level of curtailment imposed during the applicable billing periods.

(b) Section 6 gas purchased by a pipeline as agent for certain of its customers shall be allocated to those customers which received such gas. Those customers shall pay all charges attributable to such supplies including applicable transportation charges.

(c) Section 6 gas purchased for system supply shall be allocated to all customers in proportion to system volumes purchased by each customer during the applicable billing period. The charges for such volumes shall be billed pursuant to paragraph (e) below.

(d) The following billing procedures may be utilized by interstate pipeline companies to flow through all authorized costs[1] of ENGA purchases pursuant to Section (6) of the Act:

(1) If the purchases are 2.0 percent or less of an interstate pipeline company's total purchases for the monthly billing period as forecasted in its September 1976 FPC Form No. 16 for the months of

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[1] Refers to purchases authorized by the Administrator or consistent with the guidelines laid down by the Administrator in various orders.

February and March 1977 and for ensuing months its April 1977 Form No. 16, the interstate pipeline company is authorized by the Administrator to seek FPC approval to use its effective FPC PGA tariff provision to flow the allocable jurisdictional costs through to its jurisdictional customers.

(2) If an interstate pipeline company's monthly ENGA purchases exceed 2.0 percent of its forecasted monthly sales in its September 1976 FPC Form No. 16 for the months of February and March 1977 and for ensuing months its April 1977 FPC Form No. 16, alternate billing options are available to the company. ENGA purchases would be allocated pro rata to its customers and storage on the basis of total sales and general system storage injections for the billing month and may be recovered as follows:

(i) The company may utilize the procedure set forth in FPC Docket No. RM77-10 which provides for notification of the costs of ENGA gas allocated to each customer on the billing date following delivery and recovery of the costs in the following monthly billing; or

(ii) The company may elect to bank the ENGA costs allocated to each customer through July 31, 1977. These banked costs, plus carrying costs computed at nine (9) percent per annum, would be recovered from each customer over an eleven month period beginning October 1, 1977 and ending August 31, 1978. Individual surcharges for each customer would be computed by dividing each customer's banked costs by each customer's forecasted eleven month sales included in the pipeline company's September 1977 FPC Form No. 16.

(3) If an interstate pipeline company elects to ultilize the revenue recovery procedures provided in 2(ii) above, each individual surcharge will remain in effect until the interstate pipeline company recovers banked costs, plus applicable carrying charges. These individual surcharges should be set forth on a tariff sheet filed with the FPC.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977) and shall be published in the FEDERAL REGISTER. This order is subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

APRIL 22, 1977.

[FR Doc.77-12715 Filed 4-29-77;9:44 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 244]

VOLUNTARY DEPARTURE

Application for Extension of Time To Depart

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of proposed rule making.

SUMMARY: This is a proposal to amend the regulations of the Immigration and Naturalization Service to provide a formal procedure and application with fee to be filed by aliens to request an extension of time to depart in voluntary departure cases. This proposed rule is necessary to formalize the procedures for requesting a stay of voluntary departure in all Service offices and will insure that an appropriate record is made in all cases. This proposed procedure is similar to that now in effect for applications for stay of deportation.

DATE: Comments must be received on or before June 1, 1977.

ADDRESSES: Please submit written representations only to the Commissioner of Immigration and Naturalization, 425 Eye Street NW., Room 7100, Washington, D.C. 20536. All relevant comments received on or before that date will be considered. Oral representations may not be presented in any manner and will not be considered.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536; telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: This notice of proposed rule making is published pursuant to sec. 553 of Title 5 of the United States Code (80 Stat. 383). 8 CFR 244.2 currently provides that an alien may file a request for extension of time to depart voluntarily with the district director having jurisdiction over his place of residence. However, this regulation does not specify that the request must be filed in writing, and it is Service experience that many such request are made orally by the alien when he appears at the Service office as required by his Vountary Departure notice. Under these circumstances, it is difficult, if not impossible for the Service to make and adequate record on which the district director must base his decision. This is a very important consideration because the district director's decision on the application must be in writing and the alien may not appeal that decision. Accordingly, it is in the best interest of the alien and the Service to require a formal written application for extension of voluntary departure time. In this way the alien will have the opportunity to state and record his reasons for requesting an extension of voluntary departure time completely and in detail, and the district director who must make the decision to deny or grant the request will have a complete record on which to base his decision. Implementation of this proposed rule adopting a formal application procedure will replace the current "informal" method of requesting such extensions and provide for more deliberate and fair decisions in these matters. In this connection, we should like to point out that the proposed procedure for applications for extension of voluntary departure is similar to the current procedure in effect for application for a stay of deportation set forth at 8 CFR 243.4.

It is also proposed to require that applications for extension of voluntary departure be filed at least three working days prior to the expiration of voluntary departure time. This requirement is necessary to provide the Service adequate time for consideration of the request and prevent the filing of applications for extension of voluntary departure solely for the purpose of delay.

The consideration of applications for the extension of voluntary departure requires the services of clerks, deportation officers, and district directors, at a total personnel cost of $15 per application.

Therefore, in accordance with the provisions of section 483a of Title 31 of the United States Code (65 Stat. 290), which state that any benefit or service provided to or for any person by any Federal agency shall be self-sustaining to the full extent possible, and OMB Circular No. A-25, it is proposed to charge a fee of $15 for filing the application, which will not be returnable regardless of the action taken on the application. However, should extension of voluntary departure be granted pursuant to such application no additional fee will be required for subsequent applications for extension of voluntary departure provided the reason for the grant of the first extension is still viable.

In the light of the foregoing, it is proposed to revise 8 CFR 244.2 to further provide that a request for extension of time within which to depart voluntarily shall be filed on Form I-366 with the district director having jurisdiction over the place where the alien is at the time of filing and that this application must be filed at least three work days prior to the expiration of the voluntary departure time. Also, it is proposed to amend 8 CFR 103.7(b)(1) by adding provision for a fee of $15 for filing an application for extension of voluntary departure in accordance with section 244(e) of the Act. This proposed amendment will further provide that if an extension of voluntary departure is granted pursuant to such application no further fee will be required for additional applications for extension of voluntary departure if the reason for the grant of the initial extension is still viable.

Finally, a corollary and conforming amendment will be made to 8 CFR 299.1.

Accordingly, it is proposed to amend 8 CFR §§ 103.7(b)(1), 244.2 and 299.1 as set forth below.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

It is proposed to amend § 103.7(b)(1) by adding the following applications and fee to provide as follows:

§ 103.7 Fees.

* * * * *

(b) *Amounts of fees.* (1) The following fees and charges are prescribed:

* * * * *

For filing an application for extension of voluntary departure in accordance with section 244(e) of the Act—$15.00. If, pursuant to the filing of such application and payment of the required fee, an extension of voluntary departure is granted, no further fee will be required for additional applications for voluntary departure if the same reason(s) for the initial grant of extension of voluntary departure are still viable.

* * * * *

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

2. It is proposed to revise § 244.2 to read as follows:

§ 244.2 Extension of time to depart.

Authority to extend the time within which to depart voluntarily specified initially by a special inquiry officer, or the Board, is within the sole jurisdiction of the district director. A request by an alien for an extension of time within which to depart voluntarily shall be filed on Form I-366 with the district director having jurisdiction over the place where the alien is at the time of filing and shall be accompanied by the fee required under 8 CFR 103.7(b)(1) of this chapter, which is not returnable regardless of the action taken on the application. Written notice of the disposition of the alien's request shall be served upon him, and any notice of denial shall include specific reasons for such denial and no appeal may be taken therefrom. Such application for extension of voluntary departure must be filed at least three (3) work days prior to the expiration of the voluntary departure time.

PART 299—IMMIGRATION FORMS

3. It is proposed to amend the listing of forms in § 299.1 *Prescribed forms* by adding the following form and reference thereto in alphabetical and numerical sequence:

* * * * *

§ 299.1 Prescribed forms.

Form No., title, and description

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I–366 Application for Extension of Voluntary Departure (Sections 103 and 244(e) of the Immigration and Nationality Act; 8 U.S.C. 1103 and 1254(e)).

* * * * *

Dated: April 26, 1977.

L. F. CHAPMAN, JR.,
Commissioner of Immigration and Naturalization.

[FR Doc.77-12480 Filed 4-29-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 170]

FEES FOR FACILITIES AND MATERIALS LICENSES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Proposed Revision of License Fee Schedules

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to revise its schedule of fees for facilities and materials applications and licenses. The revised schedule would take into account the approaches to standardization implemented by the Commission. It would establish fees for (1) requests filed by vendor and architect engineers for standardized reference design approvals; (2) license amendments and renewals; (3) routine inspections; (4) special projects; (5) requests for approval of spent fuel casks and shipping containers; and (6) requests for approval of sealed sources and devices containing or utilizing byproducts, source, or special nuclear material. The proposed amendments would implement recent licensing fee decisions of the U.S. Supreme Court and the Court of Appeals for the District of Columbia.

DATE: Comments must be received on or before June 1, 1977.

ADDRESSES: The Commission will hold a public meeting to discuss this notice at 10 a.m., May 12th. The public meeting will be held in Room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Mr. W. O. Miller, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-492-7225.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Atomic Energy Commission (AEC), the Nuclear Regulatory Commission's (NRC) predecessor, adopted its first license fee schedule on October 1, 1968. This schedule was promulgated pursuant to Title V of the Independent Offices Appropriation Act ("IOAA"), 31 U.S.C. 483(a), a statute authorizing and encouraging Federal regulatory agencies to recover to the fullest extent possible costs attributable to services provided to identifiable recipients.

The relevant text of the IOAA is as follows:

> It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945) to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts.

The schedule contained a construction permit application fee, a construction permit fee, an operating license fee, fees for three types of materials licenses, and annual fees for facilities licenses and certain materials licenses. These fees were designed to recover a small portion of the Commission's costs attributable to specific services (processing of applications) provided to identifiable recipients. Only those costs that were associated with the review of an application and related to an identifiable beneficiary were included in the cost base for the establishment of a fee schedule. Activities and services, such as inspection of licensed programs, compliance and enforcement, rule making, standards development, research, safeguards, administration of the Agreement State Program, the indemnity program, and export licenses, were excluded from fee schedule computation.

On February 5, 1971, the AEC revised its October 1, 1968 schedule to account for expanding services and their associated costs. This revised schedule continued the AEC policy of limiting cost recovery to licensing services attributable to identifiable beneficiaries. This schedule was further revised on April 25, 1972 to include health and safety inspection services attributable to identifiable beneficiaries.

The current schedule was adopted by the AEC on August 10, 1 973. This schedule was designed to incorporate costs arising from statutorily mandated environmental and antitrust reviews. It reflected a policy of recovering only those costs attributable to identifiable beneficiaries for the processing of applications, permits and licenses, amendments to existing licenses, and health and safety inspection which were part of the licensing process.

On March 4, 1974, the Supreme Court decided two cases challenging the validity of annual licensing fees issued by the Federal Communications Commission and Federal Power Commission under the IOAA, "National Cable Television Association, Inc. *v.* United States," 415 U.S. 336 (1974) ("NCTA") and "Federal Power Commission *v.* New England Power Company," 415 U.S. 345 (1974) ("New England Power"). The Court ruled that the IOAA allowed an agency to charge fees only for special benefits rendered to identifiable persons measured by the "value to the recipient" of the agency service. In "NCTA," it set aside the challenged portion of the FCC's fee schedule because the schedule had been constructed on factors more expansive than the value of the agency's service to the recipient company. Similarly, in the companion "New England Power" case, the Court invalidated the FPC's annual fee rules because its fee structure assessed an annual fee against the regulated industry at large without considering whether each company had received benefits from any Commission services during the year in question.

Responding to the Court's decisions, the AEC promptly eliminated annual license fees and announced procedures for requesting refunds of annual license fees previously assessed. The Commission left unchanged the remainder of the fee schedule.

On November 11, 1974, the AEC published proposed revisions to its schedule of license fees (39 FR 39734). Since that time the Commission has been reviewing public comments and considering a variety of approaches for proper evaluation of its expanding services and proper assessment based upon the corresponding increase in rising costs. A substantial effort has been devoted to re-evaluating the Supreme Court decisions, some aspects of which were notably complex, and devising an updated schedule. While this effort was underway, the Court of Appeals for the District of Columbia Circuit issued four opinions on December 16, 1976, invalidating license fee schedule promulgated by the Federal Communications Commission. "National Cable Television Association v. Federal Communications Commission," No. 75-1053; et. al; "National Association of Broadcasters v. Federal Communications Commission," No. 75-1087 et al; "Electronic Industries Association v. Federal Communications Commission," No. 75-1120 et. al; and "Capital Cities Communication, Inc. v. Federal Communications Commission," No. 75-1503 et. al. These cases have provided the Commission with additional guidance for the prompt adopting and promulgation of an updated license fee schedule.

GUIDELINES FOR FEE DEVELOPMENT

Based on the Court decisions, the NRC has developed new guidelines for use in establishing a new proposed schedule of fees. In summary, the guidelines provide that:

1. Fees may be assessed to persons who are identifiable recipients of special benefits conferred by specifically identified activities of the NRC. The special benefits would include services rendered at the request of a recipient. This includes all services necessary for the issuance of a required permit, license, approval, or amendment, and all services necessary to assist a recipient in complying with statutory obligations or obligations under the Commission's regulations.

2. All direct and indirect costs incurred by the NRC in providing special benefits may be recovered by fees.

3. It is not necessary to allocate costs in proportion to the degree of public or private benefit resulting from conferring a special benefit on a recipient.

4. Where the identification of the ultimate beneficiary of NRC activity is obscure, the cost of the activity may not be included in the cost basis for fees.

5. A fee on the average should not exceed the sum of the direct and indirect costs which the NRC incurs in furnishing the service for a member of the class of recipients as to which the fee is assessed.

6. Calculation of agency costs shall be performed as accurately as is reasonable and practical, and shall be based on specific expenses identified to the smallest practical unit and associated with the rendering of the type of agency service to the particular class of recipients.

REGULATORY FUNCTIONS

NRC is reponsible under the Atomic Energy Act of 1954, as amended, for the regulation of facilities and materials as defined in the Act. These activities may be broadly categorized as follows:

1. The processing of applications for permits licenses, amendments, and approvals.

2. Health, safety, environmental and special nuclear material safeguards inspections of licensed activities and their environs.

3. Facility quality asurance inspections and evaluations of facilities licensed under 10 CFR Part 50.

4. The processing of topical reports covering special projects and reactor components.

5. The conduct of section 189 hearings for construction permit applications and such other hearings as are necessary.

6. Antitrust reviews of Part 50 applications.

7. Development of standards including regulations, regulatory guides, codes, and criteria for applications of nuclear energy and materials.

8. Safety and confirmatory research for facilities and materials applications.

9. Generic licensing studies.

10. Enforcement of applicable regulations, orders, and license conditions.

11. Early review of prospective reactor sites.

12. Inspection of major reactor components and systems.

13. Export licensing.

14. Indemnification program for Part 50 production and utilization facilities.

15. Agreement State Program.

16. Cooperation and participation in international programs.

The "Office of Nuclear Reactor Regulation" has responsibility within NRC for processing Part 50 applications for licensing and regulation of nuclear power plants. Before a company can build a power plant at a particular site, it must file an application and obtain a construction permit from the NRC. In support of the application, the applicant files a Preliminary Safety Analysis Report (PSAR) which presents the design criteria and preliminary design information for the facility structures, systems and components, as well as comprehensive data on the site for the plant. The report also discusses various hypothetical accident situations and the safety features which will be provided to prevent accidents or, if they should occur, to mitigate their effects on both the public and the facility's employees. In addition, the applicant must submit a comprehensive Environmental Report (ER) providing a basis for the NRC to evaluate the environmental impact of the proposed plant. Information must also be submitted for use by the Attorney General and the NRC in the reviews of the antitrust aspects of the proposed facility.

When an application is submitted to the NRC, it is subjected to a preliminary review to determine whether it contains sufficient information to satisfy NRC requirements for a detailed review. If an application is not sufficiently complete, the applicant is requested to submit specific additional information. An application is formally docketed only if it meets certain minimum acceptance criteria. In addition, when the PSAR is submitted, a substantive review and inspection of the applicant's quality assurance program covering design and procurement is conducted.

The NRR staff reviews an application for a construction permit to determine whether the public health and safety and the environment will be fully protected. If any portion of the application is considered to be inadequate, the applicant is requested to modify the plant so that it will be acceptable. If the appropriate modifications are not made, authorization to begin construction will not be issued.

The review is to determine whether the plant design is consistent with NRC rules and regulations, regulatory guides, and other regulatory requirements. Design methods and procedures of calculations are examined to establish their validity. Checks of actual calculations and other procedures of design and analysis are made to establish the validity of the applicant's design and to determine that the applicant has conducted his analysis and evaluation in sufficient depth and breadth to support required findings with respect to safety.

During the staff's review, an applicant is required by regulation to provide such additional information as is needed to complete its evaluation. The principal features of the evaluation include:

1. A review of the population density and use characteristics of the site and environs, and the physical characteristics of the site of the proposed power plant, including seismology, meteorology, geology, and hydrology to determine that these characteristics have been properly evaluated and have been given appropriate consideration in plant design, and that the characteristics of the site are in accordance with the siting criteria set forth in 10 CFR Part 100, taking into consideration the design of the facility including the engineered safety features provided.

2. A review of the facility design and of the programs for fabrication, construction, and testing of the plant structures, systems, and components important to safety to determine that they are in accord with the regulations, regulatory guides, and other regulatory requirements, and that any departures from these requirements have been fully identified and justified.

3. Evaluation of the response of the facility to various anticipated operating transients and to a broad spectrum of hypothetical accidents. The potential consequences of these hypothetical accidents are then evaluated conservatively to determine that the calculated potential offsite radiation doses that might result, in the very unlikely event of an accident occurrence, would not exceed the guidelines for site acceptability given in 10 CFR Part 100.

4. A review of the applicant's plans for th conduct of plant operations, including the organizational structure, the technical qualifications of operating and technical support personnel, the measures taken for industrial security, and the planning for emergency actions to be taken in the unlikely event of an accident that might affect the general public. An important aspect of this review includes review and assessment of the applicant's programs for quality assurance and quality control to assure compliance with NRC's requirements. This review forms the basis for determining whether the applicant is technically qualified to operate the plant and whether he has established effective organizations and plans for continuing safe operation.

5. Evaluation of the design of systems provided for control of the radiological effluents from the plant to determine that the proposed systems can control the release of radioactive wastes from the nuclear power station to the limits specified by appropriate regulations and that the applicant will operate the facility in such a manner as to reduce radioactive releases to levels that are as low as practicable.

The review and evaluation of an application for a construction permit is performed by the NRC staff and its consultants over an average period of 24 months. To the extent feasible and appropriate, the staff makes use of previous evaluations of other reactors approved for construction or operation, standardized designs, and previous evaluations of various aspects of reactor design described in topical reports.

The licensing process includes the consideration of programs proposed by an applicant for a construction permit to verify plant design and to confirm design margins. The licensing process includes consideration of programs of basic research and development necessary to assure the resolution of questions associated with safety features or facility components and must identify any research and development work that will be conducted to confirm the adequacy or to resolve any safety questions associated with the design of a particular facility along with a schedule for completion of the research and development work showing that such safety questions will be resolved prior to operation of the facility.

When the staff review and evaluation of the application has progressed to the point that acceptable criteria, preliminary design information and financial information are documented in the application, a Safety Evaluation Report (SER) will be prepared. This report represents a summary of the staff review and evaluation of the application.

The "Advisory Committee on Reactor Safeguards" (ACRS), an independent statutory committee established to provide advice to the NRC on reactor safety is required to review each application for a construction permit or an operating license for a commercial nuclear power plant. At the time an application for a construction permit is docketed, copies of the PSAR are provided to the ACRS. Each application is assigned to a project subcommittee. During the course of the review by the NRC staff, the ACRS is kept informed of the staff's request for additional information from the applicant and of meetings held with the applicant, so that the ACRS subcommittee chairman is aware of any developments that may warrant a change in the plant.

Normally, the full ACRS considers a project upon receipt of the staff SER and the report of the ACRS subcommittee. The ACRS gives special attention to those items which have particular safety significance for the reactor involved and of any new or advanced features proposed by the applicant. The full committee meets at least once with the NRC staff and with the applicant to discuss the application. These full committee meetings are open to the public. When the committee has completed its review, its report is submitted to the NRC in the form of a letter to the Chairman.

The NRC staff prepares a supplemental SER to address the ACRS report and to include any other information made available since issuance of the original SER.

Either concurrent with or separately from the radiological safety review, an environmental review is performed by the staff and its consultants. This review is to evaluate the potential environmental impact of the proposed plant and to provide comparisons between the benefits to be derived from the plant and the possible risk to the environment. After completion of this review, a Draft Environmental Statement (DES) containing conclusions on environmental matters is issued. The DES is circulated to interested Federal and State agencies for review and comment. It is also available for comment by individuals and by organizations representing the public. After receipt of all comments and resolution of any outstanding issues, a Final Environmental Statement (FES) is published and made available to the public.

A mandatory public hearing is held before a construction permit is issued for a nuclear power plant. Upon docketing an application, the NRC issues a notice of hearing. The evidentiary public hearings will be held after completion of the safety and environmental reviews. Opportunity is afforded to members of the public to intervene as participants or make limited appearances at the hearing. At an early stage in the review process, potential intervenors are invited to meet informally with the NRC staff to discuss their concerns respecting the proposed nuclear power plant.

The public hearing for an application for a construction permit is conducted by a three-member "Atomic Safety and Licensing Board" (ASLB) appointed from the NRC's "Atomic Safety and Licensing Board Panel." The board is composed of one lawyer, who acts as chairman for the proceeding, and two other technically qualified persons. The safety evaluation, supplements to the SER and the FES are offered to the board as evidence by the NRC staff at the public hearing. The hearing(s) may be a combined safety and environmental hearing or in the case of a split application, separate hearings. The board considers all the evidence which has been presented by the Commission, applicant and intervenor, together with findings of fact and conclusions of law filed by the parties, and issues an initial decision. If the initial decision regarding the requirements of the National Environmental Policy Act and safety matters is favorable, a construction permit is issued to the applicant. The board's initial decision is subject to review by an "Atomic Safety and Licensing Appeal Board (ASLAB) on its own motion or upon exceptions filed by any party to the proceeding. Under certain circumstances, the ASLAB decision may be reviewed by the Nuclear Regulatory Commissioners.

Prior to a decision on an application for a construction permit, Commission regulations provide that the Director of Nuclear Reactor Regulation may authorize limited amounts of work to be performed by the applicant prior to the issuance of the construction permit. This authorization is known as a Limited Work Authorization (LWA). An LWA may be granted only after the ASLB has made all of the National Environmental Policy Act (NEPA) findings required by the Commission's regulations in 10 CFR Part 51 for the issuance of a Limited Work Authorization and has determined that there is reasonable assurance that the proposed site is suitable with the site suitability regulations of the Commission.

Statutes require that antitrust aspects of a nuclear power plant license application be considered in the licensing process. The antitrust information required in the application for a construction permit is sent to the Attorney General of the United States for his advice on whether activities under the proposed license would create or maintain a situation inconsistent with antitrust laws. The Attorney General's advice is promptly published and opportunity is provided for interested parties to raise antitrust issues. An antitrust hearing may be held upon the recommendation of the Attorney General or on the petition of an interested party. The NRC is required to make a finding on antitrust matters in each case where the issue is raised. Antitrust hearings are held separately from hearings on environmental and safety matters.

At such time as the construction of the nuclear power plant has progressed to the stage where most of the final design information and plans for operation are ready, the applicant submits the Final Safety Analysis Report (FSAR) in support of an application for an operating license. The FSAR sets forth the pertinent details on the final design of the facility. The FSAR also supplies plans for operation and procedures for coping with emergencies. The staff makes a detailed review of the FSAR. Amendments to the application and reports may be submitted from time to time. The staff again prepares a SER and, as during the construction permit stage, the ACRS again makes an independent evaluation and presents its advice to the Commission by letter.

A public hearing is not mandatory prior to the issuance of an operating license; however, after acceptance of the operating license application, the Commission publishes notice that it is considering issuance of the license. The notice provides that any person whose interest may be affected by the proceeding may petition the NRC to hold a hearing.

Each license issued by the NRC for operation of a nuclear reactor contains Technical Specifications, which set forth the particular safety and environmental protection measures to be imposed upon the facility and the conditions of its operation.

The Office of Nuclear Reactor Regulation also has responsibility within NRC for the processing of Part 50 applications for licensing of test facilities and research reactors. This office also reviews standardized reference designs for nuclear power plants, conducts generic licensing studies, topical report reviews, and develops research proposals necessary to aid in evaluation of reactor safety.

The licensing process for test facilities and other production and utilization facilities follows the review and licensing pattern for nuclear power plants. Research reactors are not subject to mandatory hearings and antitrust review, however, they are subject to a safety review.

Sites for proposed production or utilization facilities under 10 CFR Part 50 may be reviewed and evaluated in conjunction with an application for a construction permit, as described above or prior to the filing of an application. Such early site reviews for nuclear power plants may be complete or partial. The procedure for Commission review of a site, which may later be a part of a construction permit application, is identical to the comprehensive review of a site included as part of the application for a construction permit.

The "Office of Nuclear Materials Safety and Safeguards" (NMSS), under statute and regulation, licenses and regulates all non-reactor facilities and materials associated with the processing, transport, use and handling of special nuclear, source, and byproduct materials. This office also reviews the safeguards of non-reactor facilities and special nuclear materials.

The NMSS fuel cycle safety and environment program involves the processing of license applications for uranium mills, conversion facilities, reprocessing centers, fuel fabrication plants, spent fuel storage, and waste disposal. Each applicant is required to describe the site(s) of proposed use, plant design, method of criticality control, radioactivity waste management, operating procedures, and impact on the plant environs. The NRC staff and its consultants review each application to determine the adequacy of the proposed facility, operation, and safety and environmental controls.

The NMSS safeguards licensing program has responsibility for the review of all applications to license non-reactor facilities and materials which involve the processing, transport, storage, and handling of quantities of special nuclear materials subject to safeguards under 10 CFR Parts 70 and 73. The staff reviews and evaluates the applicant's descriptions of his physical protection and material control programs to determine adequacy. NMSS is also responsible for developing contingency plans to deal with threats, thefts, and sabotage and monitoring, testing, and upgrading safeguards systems.

NMSS evaluates the design and testing of shipping casks, packages and containers to determine that they meet regulatory requirements.

The NMSS radioisotope licensing program reviews and processes license applications for the possession and use of byproduct, source, and small quantities of special nuclear material. These applications cover medical usage, basic and applied research, teaching, consumer products, and various industrial usages such as radiography, well-logging, irradiation facilities, nuclear laundries, etc. Such staff reviews cover safety and the environmental aspects of the proposed radioisotope program and cover factors, such as the training of user personnel, procedures for the use of licensed materials, contamination control, controlling exposure to personnel, adequacy of proposed facilities and instrumentation and waste management.

Activities of NMSS also encompass generic licensing studies and safeguards assessment studies. These generic activities cut across the fuel cycle and radioisotope licensing programs. The office also participates in standards development activities and recommends research requirements.

"The Office of Inspection and Enforcement (IE)" is responsible for NRC's inspection and enforcement program and the program is based on the precept that nuclear quality requirements are mandatory and enforceable under Federal law. The NRC's IE inspects the industry quality assurance process on a continuing basis and takes enforcement action where necessary. The program is designed to assure that applicants for NRC permits and licenses, as well as existing licensees, conduct their activities in a manner that adequately protects the health, safety, and security of the public and the environment in which they live.

The IE performs three essential functions:

1. Inspects facility and materials licensees and their contractors and suppliers to ascertain whether their quality assurance programs and activities are being conducted in accordance with NRC rules and regulations and conditions of their licenses.

2. Investigates incidents, accidents, allegations and other unusual circumstances involving matters subject to NRC jurisdiction to ascertain the facts and to recommend or take appropriate corrective action.

3. Enforces compliance through issuance of notices of violation, imposition of civil monetary penalties, and promulgation of orders to suspend, modify or revoke licenses, or to cease and desist licensed operations.

A key component in the construction and operation of nuclear power plants is quality assurance. This involves a planned management program of checks and controls designed to assure that plants are conceived, built, and operated to permit a high degree of confidence in their safe performance. Each prospective reactor licensee is responsible for developing a detailed quality assurance plan which also includes the verification of product quality from its contractors and vendors. The requirements against which licensee quality assurance plans and activities are measured are specified in NRC regulations, national codes and standards, conditions specified in permits and licenses and the applicant's or licensee's own approved operating procedures.

IE begins reviewing the organization and plans, six to nine months prior to the submission of an application for a construction permit for a nuclear power plant, to determine that the proposed quality assurance program is fully responsive to regulations.

IE inspections are of two general types, safety and environmental protection inspections; and materials and facility protection inspections (safeguards). The first type covers quality assurance activities related to health, safety and environmental concerns for power and other reactors; fuel cycle facilities; architect-engineers, vendors and suppliers; and materials licensees, including universities, hospitals, research organizations, and other firms or institutions using nuclear materials. The second type deals with quality assurance in physical protection and safeguarding of special nuclear materials and facilities held or owned by licensees. Through direct observation, interviews, independent testing and review of records, NRC inspectors gather facts to ascertain compliance with approved quality assurance programs and with other NRC requirements.

The IE inspection program for nuclear power plants begins with quality assurance planning and extends over the facility's entire lifetime.

Based on the premise that the applicant or licensee is responsible for the design, construction, and safe operation of its facility, NRC inspectors examine the licensee's efforts to obtain assurance that this responsibility is being met, and to prepare the way for corrective action if it is not.

IE inspections cover five phases of a nuclear power plant's life:

Preconstruction activities. Prior to docketing of an application for a construction permit, inspection focus on the prospective licensee's quality assurance program. An acceptable program must be in existence before the application will be accepted for formal NRC review. Subsequent to docketing and prior to issuance of a construction permit, inspections are carried out to confirm that an adequate program has, in fact, been implemented.

Construction activities. During construction, IE inspects to verify that the described quality assurance program for construction is being properly implemented. When components are received onsite, IE inspectors, on a selective sampling basis, verify conformance with specifications and ensure that quality assurance procedures for handling and storage are implemented. During plant erection and the installation of components, they selectively observe activities such as welding, concrete installation, and electrical and instrument cable installation, and review the results of tests to determine whether requirements are being met.

Preoperational testing and *startup*. The frequency of inspections is increased significantly during preoperational testing and startup. Inspectors observe selected preoperational and startup tests and check results to verify that components and safety systems do perform their intended functions. They also examine the operating organizational structure, training of personnel, performance of equipment and personnel, monitoring and sampling programs for radiation and effluent control, results of environmental monitoring, plans and training for emergencies, security provisions, and administrative controls for safety.

Operations activities. After routine operations of the plant begins, periodic inspections ascertain whether the licensee is operating in a safe and responsible manner in conformity with NRC requirements. Particular attention is devoted to evaluating corporate and plant management to determine whether its steps to prevent safety problems are effective, and whether it takes positive and timely corrective action in the event of abnormal occurrences.

During 1975, the NRC initiated the Licensee Contractor and Vendor Inspection Program (LCVIP). The purpose of LCVIP is to verify that industry has quality assurance programs which are consistent with NRC criteria established in 10 CFR Part 50, Appendix B. Under this program, selected vendors are inspected directly by IE inspectors rather than in association with licensee or utility inspectors, as previously done. This provides a more uniform application of the Commission's quality assurance requirements and, at the same time, reduces the need for repetitive audits and evaluations by licensees of their suppliers' generic quality assurance programs.

The routine inspection program has been structured so that certain elements of a licensee's authorized activities (involving personnel, procedures, operations, facilities, materials, and equipment) are inspected at a prescribed frequency. The inspection is made to assure that a licensee's activities are being conducted in accordance with regulatory requirements and that associated facilities and equipment are operated in a safe manner. To ensure that adequate inspection of each of the identified elements of a licensees' activities are being conducted in accordance with regulatory requirements and the associated facilities and equipment are operated in a safe manner, procedural requirements have been established, and appropriately keyed to licensee activities. The scheduling and frequency for inspection against the various requirements for each licensee depends upon the scope and complexity of the licensed program. For the majority of the NRC licenses, i.e., nonpower reactors, source material and most byproduct and special nuclear material uses, the inspection program specifies that all requirements should be scheduled for inspection during one visit at the site and that, depending upon the nature of the licensed program, the inspection frequency would be once each year, once every two years, once every three years, once every five years or no more than approximately once every three years. Inspection of newly licensed activities would be within 1½ years after issuance of the license.

The inspection program for operating test and power reactors, some research reactors, which are rated at greater than one megawatt, fuel reprocessing facilities, licensed activities involving large quantities of special nuclear material for research and development, processing or fabrication and major processors of byproduct material, specifies that some of the regulatory and safety requirements should be scheduled on a staggered basis throughout a 12 month period (and in a few instances over a 36 month period). The scope and complexity of these licensed activities are such that it is not feasible or prudent to schedule and complete all inspection requirements during one site visit. The inspection requirements for these licensees are normally clustered into three 4-month periods or four 3-month periods which comprise an inspection year. Due to the nature of the inspection program which involves operational, environmental and radiological safety, as well as emergency planning and many different inspector skills, several inspections may be performed during a 3 or 4 month period in order to satisfy the inspection requirements. The frequency of inspections is set forth in the Notice of Proposed Rule Making.

IE conducts safety and environmental inspections of more than 8,500 materials and fuel facility licensees, including spent-fuel reprocessors, fuel fabricators, waste disposal licensees, major radiopharmaceutical firms, radiographers, and operators of medical facilities, educational institutions, exporters, Federal and State agencies, and various industrial organizations.

It should be noted that, for most nonpower reactors and the majority of the materials licenses, the frequency of inspections ranges from intervals of two per year to one every ten years. There is a group of materials licenses which authorize small quantities where no prescribed frequency is specified. Rather the policy is to select approximately five percent of these licenses each year. For licenses authorizing major byproduct uses, such as processing and manufacturing operations, fuel fabrication, fuel reprocessing and power reactors, the inspection program focuses a set of inspection requirements which must be completed during a 12-month period. Several of the inspection requirements might be completed at one time. A single fee would be collected for the total inspection.

Inspections of materials and fuel facility licenses are performed at frequencies determined by a classification system based on the relative weight given to safety considerations. Fuel facility insepctions focus on the evaluation of management quality assurance programs and controls over operations. A typical inspection might include a review of processing and equipment, such as filtration systems, checks for releases of radioactive effluents, and monitoring personnel to determine if regulatory requirements are being followed. The IE gathers on a selective sampling basis detailed information to ascertain whether licensees are conducting their activities with due regard to nuclear criticality control and radiological health and safety.

The NRC's safeguards inspection program, covering physical protection of nuclear materials and reactor facilities, control and accountability of these materials, including direct measurements to verify licensees control and accountability, is conducted by IE. This program involves the inspection of licensees possessing given quantities of special nuclear material. The inspection staff conducts physical protection, nuclear material control and accounting, and inventory verification inspections of licensees which include fuel cycle facilities, reactors, research and development facilities, fuel reprocessing facilities, and universities having research reactors. Frequencies of inspections are determined by the quantity, quality, and accessibility of special nuclear materials which the licensees are authorized to possess and depend on the type of inspection conducted. The basic elements of an inspection include a review of material controls systems and procedures, physical inventory controls, measurement controls, and records and reporting controls. NRC inspectors use specially equipped vans to verify, through selective on-site sampling, the enriched uranium and/or plutonium content of inventory. (The mobile equipment also is used to analyze low-level radioactivity in air and water effluents as part of the inspection program of confirmatory measurements of environmental releases.)

Physical protection inspections involve the review of physical protection systems, procedures and personnel to determine if adequate protections have been implemented in compliance with the existing security plan, license conditions, rules and regulations. These reviews consist of direct observation of systems performance, examinations of records and documentations, interviews with licensee and local law enforcement personnel, and selected listing of certain hardware and procedures.

IE conducts surveillance programs for nuclear materials in transit which require that the export and import of significant quantities of special nuclear material, and not less than 20 percent of all other shipments, be monitored by IE inspectors.

Shipments by all modes of transportation are subjected to unannounced inspections, examination at points of origin, transfer and destination, observation and other surveillance by NRC inspectors to detremine compliance with appropriate regulations and to assess the adequacy of the protection.

The main objective of the NRC's environmental monitoring program is to determine if there is a buildup of radioactivity in the environment. Each nuclear facility licensee is required to monitor major and potentially significant paths for release of gaseous and liquid radioactive effluents during normal operation. IE inspectors check the licensee's radiological monitoring and waste systems to assure they are built as designed and operated to keep releases within regulatory limits. If a regulatory limit is exceeded, the licensee must so inform the NRC and take appropriate action. Each power plant licensee also is required to monitor major pathways in the environment. During NRC inspections, random samples of monitoring records, procedures, and reports are examined and confirmatory measurements are made to assess the accuracy and consistency of licensee measurements of radioactivity in effluent and environmental samples.

Enforcement action is taken to assure that persons who do not comply with regulatory requirements will act promptly to bring their programs into compliance. Notifications of deviations from approved codes, standards and guides, and from licensee commitments to the Commission, are forwarded to licensees and, if corrective measures are not properly implemented, appropriate enforcement actions are imposed.

A significant part of the NRC's inspection and enforcement effort is involved in responding to reports of radiation incidents, abnormal occurrences, equipment problems, and allegations of improper or unsafe operations.

Standards are basic to the NRC's comprehensive program for the control and safe use of nuclear energy. Developed by the NRC's "Office of Standards Development," (SD), they govern protection of the public and nuclear industry workers from radiation, safeguarding nuclear materials and plants, and protection of the quality of the environment.

In setting forth safety requirements, including quality assurance requirements for the design, construction, and operation of nuclear reactors, standards, provide the mechanism for codifying sound engineering practices and the lessons of experience.

The standards development function of NRC also provides a mechanism for resolving frequently recurring technical issues through generic rulemaking, provides a forum for all segments of the public to provide input to proposed standards, and clearly establishes NRC's bases for inspection.

NRC develops two kinds of standards: Regulations and regulatory guides. NRC regulations, established by the Commission and published in Title 10, Chapter I, of the Code of Federal Regulations, set forth both general and specific requirements that must be met. NRC regulatory guides describe and make available to the public methods acceptable to the NRC staff for implementing specific parts of the Commission regulations, delineate techniques used by the staff in evaluating specific problems or postulated accidents, or provide guidance to applicants. Public input to the development of NRC regulations and guides is encouraged.

The major responsibilities and activities of the SD are:

1. Developing siting safety and environmental impact standards for selection and evaluation of sites for nuclear facilities.

2. Developing nuclear power plant safety engineering standards for design, procurement, construction, testing, operations, and decommissioning of power reactors.

3. Developing fuel cycle facility safety engineering standards for fuel cycle plants including waste storage.

4. Developing safeguards standards for physical protection of nuclear materials and facilities and for control of nuclear materials.

5. Developing standards for safety in transportation of radioactive materials and standards for use of radioactive materials in medical, industrial and consumer product applications.

6. Developing radiation protection standards.

7. Providing and managing technical interaction with national and international standards-development groups.

The "Office of Nuclear Regulatory Research" has the responsibility to develop and analyze technical information on reactor safety, safeguards and environmental protection as a basis for licensing and other decisions in the regulatory process. The office performs research, characterized as "confirmatory assessment," which relates specifically to regulatory decisions for the safe and environmentally compatible operation and protection of nuclear facilities and materials.

The goal of the NRC's reactor safety research program is to develop an independent basis and means to reliably and credibly analyze the course of events in hypothetical nuclear reactor accidents and to estimate the consequences of such accidents. The program proceeds on two interlocking approaches: experimental programs, and analytical model development. The experimental programs generate the independent data base for developing and validating the analytical models. The models, in turn, are used to extrapolate between laboratory scales or conditions and full-scale reactors, and the validity of the extrapolation is tested through further integral experiments.

This program attempts to develop methods of analysis by which the safety of reactors can be independently assessed by NRC, and to provide information and methods needed to achieve safe operation.

The overall objective of the reactor safety research program is to develop analytical methods that can confidently be used by NRC to assess the safety of nuclear power reactors on an independent basis. This includes:

1. Establising and testing, on a sound engineering base and improved analytical methods of safety analysis;

2. Improving the engineering data base concerning the conditions that might trigger a reactor accident;

3. Extending and improving of independently-derived technical information against which to compare applicant or licensee safety justifications in licensing actions, and

4. Reducing present margins of uncertainty in the data and models so that the degree of conservatism applied to safety assessment may be further quantified.

Water reactor safety research is directed at providing a capability for independent confirmatory assessment of the safety of the current generation of nuclear plants under postulated accident conditions. The research data and analytic methods applied to the assessment of hypothetical nuclear plant accidents is intended to result in a greater measure of confidence that the margins of safety identified in the licensing review are well defined and quantified.

Safety research in systems engineering is addressed primarily to the study of postulated loss-of-coolant accidents in reactors and the effectiveness of emergency core cooling systems. In general, the research is conducted through two types of tests: (1) "Separate effects" tests to obtain data on those portions of a postulated accident where transient heat transfer and fluid flow phenomena are isolated, thus reducing the number of test variables and simplifying understanding of those complex phenomena, and (2) "integral systems" tests to study combined phenomena representing an entire postulated accident sequence, both to assess the significance of knowledge gained from separate effects.

In conjunction with the safety review of nucelar power plant applications, the NRC technical staff conducts evaluations of potential safety problems that may apply to many reactors of a given design type. The detailed reviews and independent analyses of emergency core cooling system performance, the reliability of automatic shutdown (scram) systems, and containment pressure during accidents, are examples of this type of study. The staff also conducts engineering audits of reactor vendors' and architect-engineers' design calculations and procedures to assure conformance with safety design practice.

Data obtained from research and development programs on particular facilities and from the Commission's confirmatory research program are factored into the licensing reviews performed by the NRC staff.

Program Direction and Administration Offices" provide overall policy direction, resource management effectiveness, administrative and logistic support to the NRC, and includes the staff offices of the Commissioners and the Executive Director for Operations. They are, Office of Commission, Office of the Secretary, Office of the General Counsel, Office of Policy Evaluation, Office of Inspector and

Auditor, Office of Congressional Affairs, Office of Public Affairs, Office of the Executive Director for Operations, Office of Administration, Office of the Controller, Office of Planning and Analysis, Office of Management Information and Program Control, and Office of Equal Employment Opportunity.

The "Commissioners" are the governing body of NRC who exercise the overall responsibilities of the Energy Reorganization Act of 1974 and the Atomic Energy Acts of 1946 and 1954, as amended. They provide the fundamental policy guidance and administration and management direction necessary to assure that the civilian use of nuclear energy is developed in a manner consistent with the public health and safety, environmental quality, national security, and antitrust laws.

The "Office of the Secretary" develops policies and procedures for complete secretariat services for the conduct of Commission business and implementation of Commission decisions; advises and assists the Commission and all NRC staff offices on the scheduling and conduct of Commission business; records Commission meetings; plans, directs and operates the NRC staff paper system; operates the Commission Correspondence & Records Facility and a consolidated mail facility for the NRC Washington, D.C. office; maintains the Commission's official docket; coordinates the protocol activities at Commission level; provides logistic assistance to the Atomic Safety and Licensing Board Panel, Atomic Safety and Licensing Appeal Board Panel and the Advisory Committee on Reactor Safeguards; performs services of the Federal Advisory Committee Management Officer; operates a reproduction facility; directs a historical program; operates the classified document control system for the Commissioners; provides personnel, administrative and logistical support services to the Commission and other NRC offices located in Washington, D.C.; and supervises and administers the NRC Public Document Room.

The "Office of the General Counsel" is the chief legal advisor to the Commission and provides legal opinion, advice, and consultations to the Commission in connection with the quasi-judicial responsibilities of the Commission and in the development of substantive policy matters. It represents the Commission in matters relating to litigation, and, in cooperation with the Department of Justice, represents the Commission in court proceedings affecting the NRC program. The office also provides legal advice with respect to legislative matters of concern to NRC, including drafting of legislation, preparation and review of testimony, and preparation and transmission of statements of views requested on proposed legislation.

The "Office of Policy Evaluation" advises the Commission on a broad range of substantive policy matters to enhance the information base on which Commission decisions are made.

The "Office of the Inspector & Auditor" is responsible for developing policies ad standards that govern the financial and management audit program including planning and directing the long-range comprehensive audit program as well as conducting day-to-day internal audit activity; conducting investigations and inspections, as necessary, to ascertain and verify the facts with regard to the integrity of all operations, employees, organizations, programs and activities; referring suspected or alleged criminal violations to the Department of Justice; and serving as the point of contact with the General Accounting Office and maintaining liaison with the Department of Justice and other law enforcement agencies.

The "Office of Congressional Affairs" assists and advises the Commission and senior staff on Congressional matters, coordinates interagency Congressional relations activities, and is the principal liaison for the Commission with Congressional committees and members of Congress.

The "Office of Public Affairs" plans and administers NRC coordinated and comprehensive programs to inform the public of Commission policies, programs and activities, as appropriate, and for informing NRC management of public affairs activities of interest to the Commission.

The "Executive Director for Operations" coordinates and directs the Commission's operational and administrative activities and is responsible for coordinating and developing policy and program options generated by the directors of the program offices.

The "Office of Administration" is responsible for personnel administration; security and classification; document control; facilities and materials license fees; contracting and procurement; rules, administration of Freedom of Information requests, proceedings and document services; telecommunications; automatic data processing; building management; printing and reproduction; records management; and a variety of other housekeeping functions. Additionally, the office is responsible for directing the activities of management and administrative support programs, and for developing policy options for Commission consideration.

The "Office of the Controller" provides the budgetary and fiscal management organization for the NRC, including the development and maintenance of a financial control system and a system of accounting which conforms to the standards prescribed by the Comptroller General.

The "Office of Management Information and Program Control" provides a comprehensive management information and control system for program planning, scheduling, reporting and analysis of program performance for the NRC.

The "Office of Planning and Analysis" assists the Executive Director for Operations in program assessment and policy analysis and development. The office's major objectives are to define and estimate the economic parameters of the licensed nuclear industry; complete cost-benefit guidelines for NRC; direct and support efforts to improve regulatory effectiveness; and continue to implement and refine management systems.

The "Office of Equal Employment Opportunity" is responsible for defining the procedures and practices necessary to attain and maintain equal employment opportunities within the NRC. The office develops and prepares the agency's Affirmative Action Plan, advises and assists on recruitment plans, and provides prompt investigation of discrimination complaints when necessary.

Offices supplying direct Program Technical Support to the NRC are the Office of the Executive Legal Director, the Advisory Committee on Reactor Safeguards, the Office of State Programs, and the Office of International Programs, with the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel performing adjudicatory functions. The services provided for the Advisory Committee on Reactor Safeguards, the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel were discussed earlier in this notice.

The "Office of the Executive Legal Director" is responsible for providing legal advice and services to the Executive Director for Operations and the programmatic and support offices reporting to him. These responsibilities include representation of the NRC Staff in administrative proceedings involving the licensing of nuclear facilities and materials, and the enforcement of license conditions and NRC regulations; counseling with respect to safeguards matters, contracts, security, patents, administration, research, personnel, and the development of regulations to implement applicable Federal statutes.

The "Office of State Programs" is responsible for developing and implementing plans, policies, and programs for the coordination and integration of Federal and State responsibilities in the regulation of nuclear materials and facilities; carrying out NRC's federally assigned "lead-agency" role in providing training and technical assistance to State and local governments to enhance their radiological emergency response planning and operations capabilities; developing NRC's national-level emergency preparedness program; administering the State Agreements program whereby qualified States assume certain NRC regulatory functions; and providing direct program support to NRC in all aspects of State-related activities, including the monitoring of all State Legislation and activities impacting the NRC.

The "Office of International Programs" is responsible for negotiation and implementation of regulatory and safety information exchange agreements with other countries, licensing the import and export of nuclear materials and nuclear facilities, NRC nonproliferation and international safeguards policy planning, analysis and coordination, and providing direct program support to NRC for all of its international activities.

SPECIAL BENEFITS

Services providing "special benefit" includes those rendered by an agency at the request of the recipient and services necessarily rendered to aid the recipient in complying with statutory and regulatory obligations. Respecting NRC services, this includes all services necessary for the issuance of a license or amendment to process and use material, to construct or operate a facility, export or import facilities or materials, to review a standardized design or special project or conduct an inspection. Services neither requested by the applicant nor strictly necessary to assist private recipients in complying with statutory or regulatory requirements may be considered as "independent public benefit".

Based on analysis of all NRC offices, their responsibilities and activities, and the Commission guidelines, which were formed around the decisions of the Supreme Court in the FCC and FPC cases and the Appeals Court decisions in the FCC cases, the services of these offices have been categorized as follows. Only those services which provide special benefits to identifiable recipients have been included for computation of fees; those for which the beneficiary is obscure, or which confer independent public benefit, have been excluded from fees. The services have been designated as included or excluded. The fact that a particular service is designated as excluded should not be taken to imply that the Commission does not view the service as a special benefit.

1. *Office of Nuclear Reactor Regulation.* (a) Processing of applications for facility construction permits and operating licenses by the NRC staff and consultants. This involves safety, environmental, and antitrust and special nuclear materials safeguards reviews (included).

(b) Processing of applications for facility license amendments and technical specification changes performed by the NRC staff and consultants (included).

(c) Review of topical reports filed by licensees and vendors of reactor components (included).

(d) Review of standardized reference designs for nuclear steam supply systems filed by vendors (included).

(e) Review of standardized reference designs for balance of nuclear plants filed by architect engineers (included).

(f) Examination and testing of the qualifications of prospective reactor operators (included).

(g) Staff assistance in development of standards, codes, criteria and licensing guides (excluded).

(h) Staff effort in facilities research projects (excluded).

(i) Licensing effort which is generic in nature, i.e., not specifically identified with applications on file (excluded).

2. *Advisory Committee on Reactor Safeguards.* The services of this office are concerned with facilities. Its safety review is included in the computation of fees. Generic licensing, research and standards development effort are all excluded.

3. *Atomic Safety and Licensing Board Panel.* Boards appointed from this panel in accordance with the provisions of section 191 of the Atomic Energy Act of 1954, as amended, conduct mandatory hearings for power reactors and test facilities and issue initial decisions with respect to granting, suspending, revoking, or amending licenses or authorizations. Effort in this office concerned with uncontested facility hearings is included in fee computation. All other effort was excluded.

4. *Atomic Safety and Licensing Appeal Board.* These boards review decisions affecting facility licensing. Effort concerned with uncontested cases is included in fee computation; the remainder concerning contested cases is excluded.

5. *Office of Nuclear Materials Safety and Safeguards.* (a) Processing of applications for non-reactor facility construction permits and operating licenses, fuel cycle licenses, and materials licenses by the NRC staff and consulants. This includes safety, environmental, and special nuclear material safeguards reviews (included). Antitrust reviews as required by 10 CFR Part 50 non-reactor facility applications (included).

(b) Processing of applications for license renewal and amendments by the NRC staff and consultants (included).

(c) Examination and testing of the qualifications of non-reactor facility operators (included).

(d) Staff assistance in development of standards and licensing guides (excluded).

(e) Staff effort to research projects (excluded).

(f) Licensing effort which is generic in nature, i.e., not specifically identified with applications on file (excluded).

(g) Staff assistance in development of safeguards contingency plans, and safeguards assessment activities (excluded).

6. *Office of Inspection and Enforcement.* (a) Routine health, safety, environmental and safeguards inspections of licensed activities (included).

(b) Quality assurance inspections during the preconstruction, construction, preoperational and operations phases of facility licensing (included).

(c) Staff assistance in development of standards and inspection criteria (excluded).

(d) Nonroutine inspections: Investigations, incident inspections, audit of licensee management and enforcement activities (excluded).

(e) Generic inspection activities, i.e., inspection activities which are not concerned with a specific licensee, facility or vendor (excluded).

7. *Office of Standards Development.* (a) All standards services would be excluded even though these activities provide substantial benefit to applicants, licensees and vendors by helping to define NRC requirements and practices and helping to establish predictability of the regulatory process. However, the identifiable recipient of the service is obscure.

8. *Office of Nuclear Regulatory Research.* (a) Research or confirmatory assessment which generally relates to regulatory decisions for the safe and environmentally compatible operation and protection of nuclear facilities and materials has been excluded from fee computation because the identifiable recipient of the benefit is obscure.

9. *The Office of the Commissioners.* (a) The Commissioners are the governing body of NRC who exercise the overall responsibility for policy guidance and administration and management of the Commission. Accordingly, it is not practical to isolate and allocate the services of this office to individual activities. The services provided by this office have been excluded from fee computation.

10. *The Office of the Secretary.* (a) The allocation of services as well as related costs to the various offices was determined by examination of the functional workload associated with each operating activity of the Office of the Secretary. Those activities supporting the licensing and inspection process were included in fee computation.

11. *Office of the General Counsel.* Effort in this office is devoted to contested hearings as well as providing legal opinion and advice in connection with quasi-judicial responsibilities of the Commission and in policy development, litigation and legislative matters. These services are not directly concerned with the licensing and inspection process, except for the effort in contested hearings. All services provided by this office were excluded from fee computation.

12. *Office of Policy Evaluation.* This office advises the Commissioners on a broad range of substantive policy matters and provides an independent review of positions developed by the NRC staff which require policy decisions by the Commission. Services provided by this office do not generally deal directly with licensing or inspection activities and are thus excluded from fee computation.

13. *Offices of the Inspector and Auditor, Congressional Affairs, Public Affairs and Equal Employment Opportunity.* The services provided by these offices provide an independent public benefit and were excluded from fee computation.

14. *The Executive Director for Operations.* This office coordinates and directs the Commission's operational and administrative activities. It is concerned directly with the licensing, inspection, standards and research activities of the Commission. The services and related costs of this office, with the exception of the Special Projects Branch, were allocated to the operation offices after analysis of the services provided. Those services supporting the licensing and inspection process were included in fee computation. The Special Projects Branch is concerned with special projects which are not directly concerned with licensing, inspection, standards, or research activities and, therefore, the services of this branch were excluded from fee computations.

15. *The Office of Administration.* Analysis shows that this office, with the

exception of the Division of Rules and Records, provides service to the respective NRC offices essentially on a per capita basis, and this is the basis for distribution of its services for fee computation purposes. Those services supporting the licensing and inspections process were included in fee computation. The Division of Rules and Records is concerned primarily with requests under the Freedom of Information Act, Privacy Act, and the Federal Reports Act and provides support involving changes to rules and regulations. It services an independent public interest and it was excluded for fee computation purposes.

16. *The Office of the Controller*. Analysis shows that this office provides services to the respective NRC offices essentially on a per capita basis. Those services supporting the licensing and inspection process were included in fee computation.

17. *The Office of Management Information and Program Control*. This office provides management information and control systems dealing with project status and schedules for several of the NRC offices. Based on analysis, the services, as well as costs, were allocated to the offices receiving the services. Those services supporting the licensing and inspection process were included in fee computation.

18. *Office of Planning and Analysis*. This office assists the Executive Director for Operations in program assessment and policy analysis and development. It does not deal with licensing or inspection activities and the services were excluded from fee computation.

19. *Office of the Executive Legal Director*. Analysis of the services provided by this office shows that the effort goes to licensing, hearings, and providing legal advice to the Executive Director of Operations. Those services supporting the licensing and inspection process were included in fee computation.

20. *Offices of State Programs and International Programs*. These offices provide an independent public benefit and all of their services were excluded from fee computation.

SMALLEST PRACTICAL UNIT

The smallest practical units for the various NRC services, which were used in the license fee determination relating to the licensing of facilities was the basic application or license. This includes applications for a construction permit, operating license, standard design approval, early review of a facility site, review of a topical report or of a special project. The applicant for a nuclear power plant permit or license may propose to use one of the standardization approaches implemented by the Commission or file an application for a unit that is customed reviewed. The several types of applications and requests filed by utilities and vendors became the basis for categories used for fee purposes.

The smallest practical units for allocating regulatory services and determining fees associated with byproduct material are the different types of applications covering the various uses of byproduct material, e.g., industrial radiography, hospitals, oil well logging, etc. In certain instances applications were further divided into sub-units based on the difference in professional time required to review the sub-units. An example of this is field radiography v. radiography at one location.

The smallest practical units for licensing special nuclear material are based on the type of material (plutonium, enriched uranium, etc.), use of material (reactor fuel fabrication, research, etc.), and the quantity of material. The amount of professional effort required to process a special nuclear material license or conduct an inspection is directly related to these factors. Using this approach applications and licenses were divided into 10 sub-units or fee categories.

The smallest practical units for source material licensing are based on the use of the source material, i.e., uranium mills, refining mill concentrates to uranium hexafluoride, recovery of uranium through in-situ leaching operations, etc. Using this approach source material applications and licenses were divided into four sub-units or fee categories.

Other fee categories which cover special applications or reviews are based on the type of application or request, e.g., evaluation of spent reactor fuel shipping casks; manufacture and distribution of power sources; evaluation of sealed sources containing byproduct, source, or special nuclear material, and evaluation of devices or products containing or utilizing byproduct, source, or special nuclear material.

In all cases the fee categories developed by the Commission represent the smallest practical units of NRC services.

The current schedule of fees for power reactor construction permits and operating licenses is partially on a sliding scale based on the capacity of the plant (megawattage). When fees were first adopted in 1968, proposed reactors were all custom units in design and increasing in size and capacity, and vendor designs still evolving based on limited experience.

When the current fee schedule was adopted some stabilization in design had occurred; however, the review process was still custom in nature because of growing safety and environmental concerns.

With implementation of the standardization program in vendor design and the licensing review and the leveling off in size and power level capacity, the manpower required to review an application for a construction permit and operating license is about the same for all new light water reactors of a particular class. The difference depends upon whether it is a standard design and whether the site has been previously reviewed. In view of this change, the sliding scale of fees for nuclear power reactors has been eliminated. Fees will be based on a fixed charge and remain so unless the pattern of reactor design and licensing requirements dictate a change.

When an application covers two or more identical power plants at a single site or at additional sites, fee categories reflect the reduced licensing effort.

For certain categories of new services or special project reviews, it was not practical to develop a fee for the category because of the extremely wide variation in review requirements. Charges will be made at the time the review process is completed, and will be based on the professional manpower required to complete the review. Examples of services in this category are reviews of reactor component designs submitted by vendors or suppliers and early site reviews.

The NRC processes large numbers of applications to amend reactor operating licenses or to make changes in the technical specifications of a nuclear power plant. Fee categories have been developed to cover these services. Applications for amendments have been grouped into six classes which reflect differences in the effort required to complete these reviews.

The current fee category for a reactor manufacturing license has been separated into two categories which reflect current application review procedures. The new categories are (1) review of the preliminary design, and (2) review of the final design.

The current fee category, "Other production or utilization facility" has been separated into two categories, namely, (1) fuel reprocessing plant complex, and (2) uranium enrichment plant. This category has been split to provide greater equity because the licensing process for uranium enrichment plants requires less effort.

The fee categories for test reactors and research reactors have been continued.

The current categories for fuel cycle licenses and applications have been subdivided to reflect substantive changes which have occurred in licensing requirements and procedures since the current fee schedule was developed. The most significant changes have been increased safety, environmental, and natural phenomena considerations in the review of applications for licenses for uranium and plutonium fuel processing and fabrication plants. With respect to uranium, the complexity of the review from a safeguards point of view is also colored by whether the uranium containing uranium 235 is enriched to 20 percent or more. In the case of licensing a plutonium fuel processing and fabrication plant, an environmental review is required prior to the start of construction. An applicant must submit its environmental report and its safety analysis nine months prior to the expected start of construction so that NRC can complete the environmental review and issue a construction approval prior to the start of construction. A new fee category, "Application for construction approval" has been developed because of this licensing change.

Because of the expected increase in storage of spent reactor fuel and the extensive safety and environmental matters to be resolved in licensing such installations, a fee category has been established for this type of application and license.

Because of the substantial increase in licensing effort resulting from additional environmental considerations, a separate fee category has been developed for licenses authorizing uranium mills. In situ leaching operations or heap leaching operations are in a separate fee category, as are licenses for refining of uranium mill concentrates to uranium hexafluoride. Licenses for quantities of source material, except when used in milling or refining operations, have been combined into one fee category. This was done because the quantity of source material is not a significant consideration in licensing.

Each of the fee categories covering licenses for small quantities of byproduct, source, or special nuclear material was analyzed to determine whether it adequately describes the effort required by the Commission. As a result of this analysis several new license fee categories have been developed while others have been modified. New fee categories established cover licenses or reviews for (1) the processing or manufacturing and distribution of radiopharmaceuticals using byproduct material, (2) authorization to receive prepackaged waste byproduct material, source material, or special nuclear material from other persons and transfer to persons authorized to dispose of the material, (3) safety evaluations of devices or products containing byproduct material, or special nuclear material, (4) safety evaluations of sealed sources containing byproduct material, source material, or special nuclear material, (5) the manufacture and distribution of encapsulated byproduct material or special nuclear material for use in power generation sources, (6) evaluation of spent fuel casks and other shipping containers and packages, and (7) special projects. The fee category for licenses authorizing the possession of byproduct material for processing of items containing byproduct material for commercial distribution has been modified to remove the phrase, "that require safety evaluation." This modification will permit all processing or manufacturing of commercial items or products, except for power sources, to be covered by one license fee category and simplify the license fee program. The fee category for licenses issued to medical institutions authorizing the human use of byproduct material, source material, or special nuclear material, has been amended to include licenses covering two or more physicians on a single license.

Under the current schedule of fees, no charges are made for routine health, safety, environmental or safeguards inspections of licensed activities; however, since these activities provide special benefit to identifiable recipients, a schedule of fees has been developed for these services. Likewise, there is currently no charge for license amendments, except those increasing the power level of an operating power reactor and those increasing the scope of a license. These amendments provide special benefit to identifiable recipients, and fees have been developed for amendments. This means that the Commission has been processing about 4,000 amendments and conducting about 1,400 routine inspections each year without any charge.

FEE DEVELOPMENT

After each of the services performed by the NRC staff were analyzed to determine the existence of special benefit, the program support services (contractual line items) were individually reviewed to determine whether they support the review of applications, permits, licenses, approvals or inspections. If a contractual service was found to be supportive of the review, licensing, or inspection process, it was considered as providing special benefit and included in the appropriate fee computation. For example, a contract laboratory completes most of the statutorily required environmental review for nuclear power plants. If the contractual service was in support of a specific license, approval, or inspection activity, the average cost per license was computed and used in developing the license for the specific fee category.

Each operating office responsible for processing of applications and conducting inspections developed the average professional manpower required to process each category or type of application, license, amendment, approval, and inspection. The categories are described in §§ 170.21, 170.22, 170.23, 170.24, 170.31, and 170.32 of this notice of proposed rulemaking. The professional manpower time is necessary to calculate the fee for each license and inspection fee category.

The NRC has a manpower system where employees conducting reviews and inspections submit weekly records identifying where their effort was expended. These records are periodically audited and entered into the NRC's automated data retrieval system. This information is retrievable as professional manpower expended against the several milestones involved in the review of facility applications. For materials it is retrievable for a class or type of application. This raw information was further analyzed after retrieval and used to develop the average manpower expended for each type of application, license, or inspection.

After each NRC service was properly categorized, contractual services analyzed, and the professional manpower figures obtained for each fee category, the cost per man-year to maintain a professional employee (professional man-year rate) was developed for the Offices of Nuclear Reactor Regulation, Nuclear Materials Safety and Safeguards and Inspection and Enforcement, and the Advisory Committee on Reactor Safeguards, Atomic Safety Licensing Board Panel and the Atomic Safety Licensing Appeal Panel. These rates were developed by using (1) each office's costs of personnel compensation (salaries), personnel benefits, administrative support and travel, (2) the number of professional employees who were identified as working on licensing, inspection, and other special projects (excluding administrative, supervisory and management direction employees), and (3) the overhead support provided to the Nuclear Reactor Regulation, Nuclear Materials Safety and Safeguards, Inspection and Enforcement, Advisory Committee on Reactor Safeguards, Atomic Safety Licensing Board Panel and Atomic Safety Licensing Appeal Board (operating offices) by the Program Direction and Administration and Program Technical Support offices. To determine overhead support these offices were analyzed to identify what service, if any, they provided to the operating offices.

After the analysis, the manpower and other costs of the offices of the Secretary, Controller, Management Information and Control, Administration, Executive Legal Director, and the Executive Director for Operations were allocated as overhead support to other NRC offices. Each of these offices, with the exception of the Offices of Controller and Administration, analyzed its operations in terms of the support it provides to the various operating offices. Based on this analysis, each office allocated its effort on a percentage basis. This overhead was applied to the total cost of the office receiving the support. The costs for the Offices of Administration and Controller were distributed to all of the NRC offices on a pro-rata basis based on distribution of manpower. This procedure was followed for the offices of the Controller and Administration because their support directly follows the needs of the staffing of the various NRC offices. PDA and PTS offices excluded from fees are the Offices of Commission, General Counsel, Policy Evaluation, Inspector and Auditor, Congressional Affairs, Public Affairs, Planning and Analysis, Equal Employment Opportunity, and International and State Programs.

The following shows how the professional man-year rate was developed for the Offices of Nuclear Reactor Regulation, Nuclear Materials and Safeguards, Inspection and Enforcement, Advisory Committee on Reactor Safeguards, Atomic Safety Licensing Board Panel, and Atomic Safety Licensing Appeal Panel.

Office of Nuclear Reactor Regulation (NRR)—Average cost per man-year computation (fiscal year 1977)

	Cost	Staff
Personnel compensation	$17,700,000	613
Personnel benefits	1,500,000	
Administrative support	4,460,000	
Travel and transportation of persons	810,000	
Subtotal	24,560,000	613
Less consultants	106,675	
Total	24,453,325	
NRR's proportionate share of PDA and PTS [1] costs	5,731,134	
NRR training costs	300,000	
Added factor [2] 613 man-years × $295/man-year	180,835	
Total	30,665,294	[3] 613

See footnotes at end of table.

	Costs	Staff
Average cost/man-year to maintain a professional employee	$30,665,294÷[3] 438=$70,012	

[1] PDA=program direction and administration, PTS=program technical support.

[2] The added factor represents interest and depreciation on plant and capital equipment.

[3] Of the total 613 budgeted employees 438 were identified as professionals exclusive of administrative, clerical, supervisory, and management direction employees.

Office of Nuclear Material Safety and Safeguards (NMSS)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$6,700,000	276
Personnel benefits costs	600,000	
Administrative support costs	1,720,000	
Travel and transportation of persons costs	530,000	
Subtotal	9,550,000	276
Less consultants	85,624	
Total	9,464,376	
NMSS proportionate share of PDA and PTS [1] costs	2,640,951	
Added factor,[2] 276 man-years×$295/man-years	81,420	
Total costs	12,186,747	[3] 276
Average cost/man-year to maintain a professional employee	$12,186,747÷[3] 176=$69,243	

[1] PDA=program direction and administration, PTS=program technical support.

[2] Added factor represents interest and depreciation on plant and capital equipment.

[3] Of the 276 total, 176 have been identified as professional man-years.

Office of Inspection and Enforcement (IE)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$15,180,000	592
Personnel benefits costs	1,370,000	
Administrative support costs	3,920,000	
Travel and transportation of persons costs	1,770,000	
Subtotal	22,240,000	592
IE's proportionate share of PDA and PTS [1] costs	3,665,623	
IE training costs	56,000	
Added factor,[2] 592 man-years ×$295/man-year=$174,640; IE special equipment only=100,490.	275,130	
Total costs	26,236,753	[3] 592
Average cost/man-year to maintain a professional employee	$26,236,753÷406 [3]=$64,623	

[1] PDA=program direct on and administration; PTS=program technical support.

[2] Added factor represents interest and depreciation on plant and capital equipment.

[3] Of the 592 total, 406 have been identified as professional man-years.

Advisory Committee on Reactor Safeguards (ACRS)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$1,035,511	37
Personnel benefits costs	102,413	
Subtotal	1,137,924	
Administrative support costs	268,424	
Travel and transportation of persons cost	348,000	
Program support costs	537,000	
Subtotal	2,291,348	37
ACRS's proportionate share of PDA and PTS [1] costs	236,926	
Added factor [2], 37 man-years×$295/man-year	10,915	
Total costs	2,539,189	[3] 37
Average cost/man-year to maintain a professional employee	$2,539,189÷28.5 [3]=$89,094	

[1] PDA=program direction and administration; PTS=program technical support.

[2] Added factor represents interest and depreciation on plant and capital equipment.

[3] Of the 37 total, 28.5 have been identified as professional man-years.

Atomic Safety and Licensing Board Panel (ASLBP)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$1,175,445	42
Personnel benefits costs	116,253	
Subtotal	1,291,698	
Administrative support costs	304,698	
Travel and transportation of persons cost	127,000	
Program support costs	230,000	
Subtotal	1,953,396	42
ASLBP's proportionate share of PDA and PTS [1] costs	458,685	
Added factor,[2] 42 man-years×$295/man-year	12,390	
Total costs	2,424,471	[3] 42
Average cost/man-year to maintain a professional employee	$2,424,471÷[3] 28.38=$85,429	

[1] PDA—Program direction and administration: PTS—program technical support.

[2] Added factor represents interest and depreciation on plant and capital equipment.

[3] Of the 42 total, 28.38 have been identified as professional man-years.

Atomic Safety and Licensing Appeal Panel (ASLAP)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$475,775	17
Personnel benefits costs	47,055	
Subtotal	522,830	
Administrative support costs	123,330	
Travel and transportation of persons cost	25,000	
Program support costs	15,000	
Subtotal	686,160	17
ASLAP's proportionate share of PDA and PTS [1] costs	150,623	
Added factor [2], 17 man-years×$295/man-year	5,015	
Total costs	841,798	[3] 17
Average cost/man-year to maintain a professional	$841,798÷[3] 9.56=$88,054	

[1] PDA—program direction and administration; PTS—program technical support.

[2] Added factor represents interest and depreciation on plant and capital equipment.

[3] Of the 17 total, 9.56 have been identified as professional man-years.

The costs of contested hearings were excluded in fee computation. The statutory hearing plays a significant role in the licensing of production and utilization facilities. Most of these hearings are contested proceedings and may consume several man-years of Commission time. The hearing is an adjudicatory process which gives the public an opportunity to intervene or participate in the licensing process. It also serves an educational purpose. The Commission has no way of estimating, in advance, the cost of a hearing. Accordingly, based on a policy decision, the costs of contested hearings were excluded in fee computation.

The actual fee for a specific category was computed by multiplying the average professional manpower required to perform the service by the professional man-year or man-hour rate, and adding the average share of the costs of the contractual support services. The following example illustrates how fees were calculated for nuclear power reactors. The example covers a duplicate design plant.

Nuclear power plant—Construction permit—1st unit on site

Organization providing service	Average professional processing time (man-year)	Professional man-year rate	Cost elements of proposed fee
NRR safety and environmental (manpower)	6.1	$70,012	$427,073
NRR safety and environmental (contractor support)			276,346
NRR antitrust (manpower)	.2	70,012	14,002
NRR safeguards (manpower)	.3	70,012	21,004
NRR consultants			556
IE safety and environmental (manpower)	1.86	64,623	120,199
IE safety and environmental (contractor support)			2,784
IE vendor program			36,800
ACRS review	1.5	89,094	133,641
ASLBP review	.4	85,429	34,172
ASLAB review	.027	88,054	2,377
Total			1,068,954

After an application fee of $125,000 was deducted from the $1,068,954 the construction permit fee became $944,000 (rounded to the nearest $100). The application fee is part of the construction permit fee moved up front so that when applications for nuclear power plants are withdrawn, cancelled or denied, the Commission will recover part of its review costs.

Nuclear power plant—Operating license—1st unit on site

Organization performing service	Average professional processing time (man-year)	Professional man-year rate	Cost elements of proposed fee
NRR safety and environmental (manpower)	5.8	$70,012	$406,070
NRR safety and environmental (contract support)			163,215
NRR antitrust (manpower)	.1	70,012	7,001
NRR safeguards (manpower)	.3	70,012	21,004
NRR consultants			556
NRR operator examinations			30,248
IE safety and environmental (manpower)	4.13	64,623	266,893
IE safety and environmental (contract support)			15,665
IE safeguards (manpower)	.1	64,623	6,462
IE safeguards (contract support)			445
ACRS review	1.2	89,094	106,913
Total			1,024,472

The operating license fee (rounded) becomes $1,024,500 for the first reactor unit on site. The fees covering review of (1) concurrent units (second, third, etc., units of the same design at a single power station and reviewed at the same time) and (2) the first identical unit located at a different site, were computed using the method shown above. The fee for an identical unit located at a different site is substantially lower than the fee for a first unit of a kind. Information used to develop fees for nuclear power plants; facility manufacturing licenses; the Clinch River Breeder reactor; review of preliminary and final standardized designs filed by vendors and architect engineers; test facilities; research reactors; reprocessing facility complexes and uranium enrichment plants, is available for public review in the Public Document Room, 1717 H Street, Washington, D.C. Individual materials licenses have been separated into 41 fee categories based on the type of license and inspection performed. The 41 categories cover applications, licenses and inspections for special nuclear material, source material, byproduct material, sealed source and device evaluations and the review of packages designed to transport radioactive materials. The development of three materials license application fees are shown below for illustrative purposes.

Plutonium processing and fuel fabrication plant

	Average professional processing time (man-year)	Professional man-year rate	Cost elements of proposed fee
Request for construction approval:			
NMSS safety and environmental (manpower)	3.8	$69,243	$263,123
NMSS safety and environmental (contract support)			220,000
NMSS safeguards (manpower)	0.32	69,243	22,158
NMSS safeguards (contract support)			25,000
Total			530,281
New license application:			
NMSS safety and environmental (manpower)	2.1	69,243	145,410
NMSS safety and environmental (contract support)			65,000
NMSS safeguards (manpower)	0.45	69,243	31,159
Total			241,569
Uranium mills:			
NMSS safety and environmental (manpower)	0.4	69,243	27,697
NMSS safety and environmental (contract support)			80,000
Total			107,697
Private physicians for use of special nuclear material or byproduct material in humans, NMSS safety (manpower)	[1] 5	[1] 38	190

[1] Man-hour.

The computation of all the fees for the materials license categories followed the method illustrated above. The cost detail is available for public review in the Commission's Public Document Room, 1717 H Street, Washington, D.C.

The following illustrates how inspection fees were developed for facility and materials licenses.

	Average professional inspection time (man-year)	Professional man-year rate	Cost elements of proposed fee
Power reactor (1st unit):			
IE safety and environmental (manpower)	[1] 1.004	$64,623	$64,881
IE (contract support)			10,789
Total			[1] 75,670

See footnotes at end of table.

	Average professional processing time (man-year)	Professional man-year rate	Cost elements of proposed fee
Special nuclear material licenses with quantities of 5 kg or more of U-235 used for fuel processing and fabrication:			
IE safety (manpower)	[1] 0.07	64,623	4,524
IE (contract support)			748
Total			[2] 5,272

[1] Per year.
[2] Inspection.

The computation of all inspection fees (safety and safeguards) were developed using the method shown above. The cost detail is available for public inspection in the Commission's Public Document Room, 1717 H Street, Washington, D.C.

Inspection fees cover not only the time the inspector spends at the licensee's site but also takes into account the time the inspector or inspection team spends in reviewing the application and supporting documentation and records, the time required to prepare the inspection report, and travel costs.

It is the intent of the Nuclear Regulatory Commission to assess inspection fees as follows:

1. Upon completion of an inspection, where the frequency of the site visit is once per year or less.

2. Upon completion of 90 percent or more of the inspection requirements where the frequency of the site visit is more than once per year.

Routine inspections conducted by resident inspectors will be assessed a fee once per year for the inspection service.

No charge will be assessed for management audits, incident inspections, investigations, and enforcement activities. These actitvities fall outside the routine inspection program and they are considered to be an independent public benefit.

In special situations the following procedures will be used in the assessment of inspection fees.

1. When a person holds multiple materials licenses with use restricted to one location, and more than one of these licenses is inspected during a single inspection visit, the licensee will be assessed only the fee for the license for which the highest fee is due.

2. When a person holds one materials license which authorizes use of material at more than one location, an inspection fee will be assessed for each location when inspected.

3. When a single license authorizes materials which fall into more than one fee category, a single inspection fee will be assessed based on the highest fee category.

4. When more than one operating power reactor is inspected concurrently at a single site, one unit will be assessed the regular routine inspection fee and the additional unit(s) will be assessed a lower fee.

Each person holding a facility or materials license will be informed by letter of the frequency for which fees for routine inspections will be assessed. The schedule of fees in §§ 170.23, 170.24 and 170.32 contain inspection frequencies. Persons receiving licenses on or after the effective date of this amendment will be informed of the inspection frequency when the license is issued. It should be recognized that changes in individual programs or in the quantity of material authorized under a license may require a change in inspection frequency. When a change occurs, the licensee will be informed in writing.

"Special project", as used in the fee schedule, means those projects for which the review is not intended to result in a permit or license and for which the fee is not stated numerically in Part 170.

A separate schedule of fees has been established for uranium enrichment facilities. These charges are substantially less than those for reprocessing facilities, because the review is less complex.

Because of changing considerations in processing fuel cycle applications, fees for such applications are based on limited experience. Accordingly, the Commission plans to reassess the professional manpower required to process each fuel cycle application for a license or amendment when the review process is complete. No applicant will be charged more than that specified in this schedule of fees.

All new applications filed on or after the effective date of this amendment will be subject to the fees prescribed by this amendment to Part 170. Construction permits, operating licenses, manufacturing licenses, standardized design approvals, issued on or after the effective date of this amendment and special project reviews completed on or after the effective date of this amendment will be required to pay the fee prescribed by this amendment.

Fees for construction permits, operating licenses, facility manufacturing licenses, approvals of standardized reference designs, early site reviews, and special project reviews will be collected upon issuance of the permit, license, and approval, or upon completion of the review.

Collections under the revised schedule of fees are estimated to be approximately $18 million in FY 1977, or about seven percent of the NRC budget. This estimate assumes adoption of the revised schedule on August 1, 1977. In FY 1978, estimated collections would be approximately $40 million.

Following the Supreme Court decisions on March 4, 1974, in "National Cable Television Association, Inc. v. United States" 415 U.S. 336 (1974), and "Federal Power Commission v. New England Power Co.," 415 U.S. 345 (1974), the Commission eliminated annual license fees and notified licensees that a request may be filed for refund of annual fees collected. We again advise licensees that a refund of annual fees is available. A request for refund should include the name and address of the licensee and the license number. Each specific annual fee refund claim should include the invoice number, the amount paid by year, the amount of the refund requested, and the amount of any previous refund. Requests for refunds should be mailed to the Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The Commission will hold a public meeting to discuss this Notice at 10 a.m., May 12, 1977, in Room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. At that time, data used in developing the proposed schedule of fees will be made available and the Commission will explain how the proposed schedule of fees was developed.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 170, is contemplated. All interested parties who desire to submit written comments for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by June 1, 1977.

1. Section 170.2 is amended to read as follows:

§ 170.2 Scope.

Except for persons who apply for or hold the licenses exempted in § 170.11, the regulations in this part apply to a person who is an applicant for, or holder of, a specific license for byproduct material license issued pursuant to Parts 30 and 32–35 of this chapter, a specific source material license issued pursuant to Part 40 of this chapter, a specific special nuclear material license issued pursuant to Part 70 of this chapter, or a production or utilization facility construction permit and operating license issued pursuant to Part 50 of this chapter, to rountine safety and safeguards inspection of a license person, and to a person who applies for approval of a reference standardized design of a nuclear steam supply system or balance of plant, for review of a facility site prior to the submission of an application for a construction permit, or for a special project review which the Commission completes or makes whether or not in conjunction with a license application on file or which may be filed.

2. Section 170.3 is amended to add:

§ 170.3 Definitions.

* * * * *

(q) "Nuclear Steam Supply System" consists of the reactor core, reactor coolant system, and related auxiliary systems including the emergency core cooling system; decay heat removal system; and coolant volume and chemical control system.

(r) "Balance of plant" consists of the remaining systems, components, and structures that comprise a complete nuclear power plant and are not included in the nuclear steam supply system.

(s) "Special Projects" means those projects for which the review is not intended to result in a permit or license and for which a fee is not stated numerically in this chapter.

(t) "Routine Inspection" means an inspection performed at frequencies or during a certain period of time prescribed by the Commission for purposes of reviewing a licensee's authorized activities to assure that they are being conducted in accordance with regulatory requirements and that associated facilities and equipment are being operated in a safe manner.

§ 170.11 [Amended]

3. The introductory langauge in paragraph (a) and paragraph (9) of § 170.11 is amended to read as follows:

(a) No application filing fees, license fee, amendment fees, renewal fees, or inspection fees shall be required for:

* * * * *

(9) A license for possession and use of byproduct material, source material, or special nuclear material applied for by, or issued to, an agency of a State or any political subdivision thereof, except for licenses which authorize distribution of byproduct material, source material, or special nuclear material or products containing byproduct material, source material, or special nuclear material, or licenses authorizing services to any person other than an agency or political subdivision of the State.

* * * * *

4. Paragraph (b)(3) of § 170.11 is deleted.

5. Paragraphs (b) and (c) of § 170.12 are amended to read as follows:

§ 170.12 Payment of fees.

* * * * *

(b) *Facility fees.* Construction permit fees, manufacturing license fees, operating license fees, reference standardized design approval fees, special project fees, amendment fees, and safety and safeguards inspection fees.

(1) Fees for construction permits, operating licenses, manufacturing licenses, and reference standardized design approvals are payable when the construction permit, operating license, manufacturing license, or standardized design approval is issued.

(2) Fees for special projects are payable upon notification by the Commission when the project is completed.

(3) Fees for amendments are payable upon notification by the Commission.

(4) Fees for inspections are payable upon notification by the Commission.

(c) *Materials fees.* Amendment, inspection, and special project fees.

(1) Fees for material license amendments shall accompany the application except for Categories 1A, 1B, 1C, 1H, 2A, 2C, 4A, 11A, 11B, and 11C, in § 170.31 where the fees are payable upon notification by the Commission.

(2) Fees for a special project involving byproduct, source, or special nuclear material are payable upon notification by the Commission.

(3) Fees for inspections are payable upon notification by the Commission.

* * * * *

6. Section 170.21 of Part 170 is amended to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of reference standardized designs and special projects.

(a) Applicants for construction permits, manufacturing licenses, operating licenses, and approval of reference standardized facilities designs, shall pay the fees set forth in the table below.

(b) Applicants for special projects reviews shall pay fees as separately determined by the Commission.

Schedule of facility fees

Facility categories	Types of fees	Fee [1]
A. *Power reactors:*		
1. Custom	Application-construction permit	$125,000
	Construction permit-first unit	944,000
	Construction permit-concurrent unit [2]	174,000
	Operating license-first unit	1,024,500
	Operating license-concurrent unit [2]	302,800
2. Standardized design-duplicate unit [3]	Application-construction permit	125,000
	Construction permit-first unit	944,000
	Construction permit-concurrent unit [2]	174,000
	Construction permit-1st identical unit additional site(s)	757,100
	Operating license-first unit	1,024,500
	Operating license-concurrent unit [2]	300,200
	Operating license-1st identical unit additional site(s)	712,000
3. Standardized design-replicate unit [4]	Application-construction permit	125,000
	Construction permit-first unit	811,600
	Construction permit-concurrentunit [2]	164,200
	Construction permit-first identical unit additional site(s)	725,900
	Operating license-first unit	914,400
	Operating license-concurrent unit [2]	293,900
	Operating license-first identical unit additional site(s)	691,500
4. Standardized Design-Reference Systems Concept: [5]		
a. Utility referencing a nuclear steam supply system and custom balance of plant.	Application-construction permit	125,000
	Construction permit-first unit	853,600
	Construction permit-concurrent unit [2]	162,500
	Construction permit-first identical unit additional site(s).	725,900
	Operating license-first unit	934,100
	Operating license-concurrent unit [2]	292,100
	Operating license-first identical unit additional site(s).	669,200
b. Utility referencing a nuclear steam supply system and standardized balance of plant.	Application-construction permit	125,000
	Construction permit-first unit	721,800
	Construction permit-concurrent unit [2]	162,500
	Construction permit-first identical unit additional site(s).	725,900
	Operating license-first unit	829,100
	Operating license-concurrent unit [2]	292,100
	Operating license-first identical unit additional site(s).	669,200
5. Manufacturing license concept: [6]		
a. Vendor-review of preliminary design.	Application	125,000
	Manufacturing license	[7] 1,477,500
b. Vendor-review of final design	Final design amendment	[7] 448,100
c. Utility referencing a manufacturing license.	Application-construction permit	125,000
	Construction permit-first unit	730,000
	Construction permit-concurrent unit [2]	61,500
	Operating license-first unit	1,001,200
	Operating license-concurrent unit [2]	221,000
6. Breeder reactors	Application-construction permit	125,000
	Construction permit	1,781,000
	Operating license	[7] 1,954,900
B. Standard reference design review: [8]		
1. Vendor-standardized nuclear steam supply system:		
a. Review of preliminary reference design.	Application	50,000
	Approval	412,100
b. Review of final reference design	Application	50,000
	Approval	483,400
2. Architect-engineer-standardized balance of plant:		
a. Review of preliminary reference design.	Application	50,000
	Approval	412,100
b. Review of final reference design	Application	50,000
	Approval	501,200
C. Test facility	Application-construction permit	5,000
	Construction permit	67,200
	Operating license	100,360
D. Research reactor	Application-construction permit	5,000
	Construction permit	34,900
	Operating license	55,000
E. Reprocessing plant complex [7]	Application-construction permit	125,000
	Construction permit	875,700
	Operating license	952,400
	Amendment Fees: [8]	
	Major safety and environment	71,500
	Major safeguards	43,800
	Minor safety and environment	3,500
	Minor safeguards	3,500

See footnotes at end of table.

Schedule of facility fees—Continued

Facility categories	Types of fees	Fee[1]
F. Uranium enrichment plants[9]	Application-construction permit	125,000
	Construction permit	388,400
	Operating license	457,200
G. Special projects and reviews[10]		

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[1] Where a partial fee for a power reactor operating license has been paid prior to the effective date of this amendment, the amount paid shall be deducted from the fee prescribed by this amendment and the difference will be due when the operating license for 100 pct power is issued.

[2] Concurrent unit: A concurrent unit is defined as a power reactor of the same design at a single power station that was subject to concurrent licensing review.

[3] Duplicate unit: A duplicate unit involves a single review of a facility design when an applicant or group of applicants propose to construct several identical units at one or more sites. (See Appendix N, 10 CFR Part 50.)

[4] Replicate unit: The review of a replicate unit involves submission of an application by a utility for a permit or license for a nuclear power plant utilizing a plant design that was previously submitted by the same utility or by another utility. Its ultimate objective would be the duplication of plants through the detailed design and construction phases.

[5] Reference system: The application for a construction permit or operating license references an *approved* standardized design covering either the nuclear steam supply or the "balance of plant." (See Appendix O, 10 CFR Part 50.)

[6] Manufacturing license concept: This type of review encompasses a number of identical units to be manufactured at one location and moved to a different location for operation. (See Appendix M, 10 CFR Part 50.)

[7] When review of application is complete, the fees will be checked against professional manpower and related contractual services costs required to process the application and in no event will fees exceed those shown in the Schedule of Facility Fees.

[8] Standard reference design review: The standard reference design review involves the review of an entire facility design or major fractions of a facility design outside the context of a license application. The standard design would be referenced by utilities in license applications. (See Appendix O, 10 CFR Part 50.)

[9] A major amendment is defined as one requiring evaluation of many aspects of licensed activities where the proposed action could present a potential risk to public health and safety. A minor amendment is defined as one that is primarily administrative in nature, where safety and environmental or safeguards considerations may be easily resolved.

[10] Charge will be separately determined by the Commission taking into account the professional manpower required to conduct the review multiplied by the applicable cost per man-year, plus any program support (contractual) costs incurred.

7. A new § 170.22 is added to read as follows:

§ 170.22 Schedule of fees for facility license amendments.

Schedule of amendment fees for facility permits, licenses, or design approvals

Class of Amendment[1]	Fee[2] (in dollars)	
	Power reactors[3]	Test and research reactors[3]
Class I: Amendments that are a duplicate of an amendment for a second essentially identical unit at the same site, where both proposed amendments are received, processed, and issued at the same time	400	
Class II: Amendments that are pro forma, administrative in nature, or do not have significant safety considerations	1,200	600
Class III: Amendments that involve a single consideration, have acceptability for the consideration clearly identified by a regulatory position, or are deemed not to involve significant hazards consideration	4,000	2,000
Class IV: Amendments that involve a complex issue or more than one consideration, several changes of the Class III type incorporated into proposed amendment, or have been judged to involve significant hazards consideration	12,300	6,000
Class V: Amendments that require evaluation of many aspects of facility operation and the associated safety analysis, are likely to involve review by the ACRS or involve significant hazards consideration and may require a hearing	25,900	12,000
Class VI: Amendments that require evaluation of a new Safety Analysis Report and rewrite of the facility license (including technical specifications), are likely to involve significant hazards consideration or require review by ACRS and are known to involve a hearing	45,000	20,000

[1] At the time the application is filed, the Commission will determine the appropriate class of amendment and the applicant will be notified of payment due.

[2] No fee will be charged for amendments which authorize an increase in power to 100 pct of the initial design power level.

[3] No fee will be assessed for Commission-ordered amendments. Fees shown are intended to apply to applicant changes resulting in an amendment to a design approval.

8. A new § 170.23 is added to read as follows:

§ 170.23 Schedule of fees for routine inspections of facilities.

Schedule of facility routine inspection fees[1]

Category	Fee[1] (dollars)	Minimum frequency[2]
1. Power reactor:		
First unit	75,700/yr	Continuous.
Additional units at same site.[3]	60,400/yr	Do.
2. Test reactor	4,500 per inspection.	2/yr.
3. Research reactor	4,200 per inspection.	(4).
4. Other production or utilization facility[5] (operating).	42,100/yr	Continuous.
5. Production or utilization facility licensed for possession but not operation.	650/yr	1/yr.

[1] Routine inspections are safety, environmental, and health physics inspections performed at specified frequencies for purposes of reviewing a licensed program to assure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, Commission regulations, and the terms and conditions of the license. These inspections involve, as necessary, direct observations of operations, personnel interviews, independent measurements and evaluations, and selective record and procedure examination. They do not include safeguards inspections of special nuclear material. Fees will be due upon receipt of notice from the Commission.

[2] The frequency of inspections depends upon the type of licensed activities and facilities, the quantities of material used or possessed, and the inherent potential safety hazards. The frequency may change because of problems experienced by licensees or previous inspection findings.

[3] A reduced fee will be charged when the inspection of an additional unit at the same site is conducted concurrently with the first unit.

[4] The inspection frequency for research reactors and critical facilities varies from once every two years to once every three years, depending on the licensed power level.

[5] Fee is applicable for a fuel reprocessing facility and for a uranium enrichment facility.

9. A new § 170.24 is added to read as follows:

§ 170.24 Schedule of fees for routine safeguards inspections of facilities.

Schedule of facility routine safeguards inspection fees

Category	Fee[1] (dollars)	Minimum Frequency[2]
1. Power reactor:		
First unit	$11,800/yr	2/yr.
Additional unit at same site.[3]	9,500/yr	2/yr.
2. Test reactor (fuel of high stragetic importance).	6,500 per inspection.	1/yr.
3. Research reactor (fuel of moderate strategic importance).	1,300 per inspection.	1 every 2 yrs.
4. Other production or utilization facility.[4]	38,700/yr	3/yr.

[1] Inspection fees are due upon receipt of notice from the Commission.

[2] The frequency of inspections depends upon the type of licensed activities and facilities, and upon the type of inspections conducted. The term "frequency" means the number of times per year that a specific inspection requirement is performed. Thus, a frequency of once per year may involve more than one trip to the facility to complete the requirement. The frequency may change because of problems, experience, or inspection findings.

[3] A reduced fee will be charged when the inspection of additional unit(s) at the same site is conducted concurrently with the first unit.

[4] Fee is applicable for a fuel reprocessing facility and for a uranium enrichment facility.

10. Section 170.31 is amended to read as follows:

§ 170.31 Schedule of fees for materials licenses and special projects.

Applicants for materials licenses and holders of materials licenses shall pay the following fees.

Schedule of materials license fees

Category of materials licenses	Type of fee[1]	Fee
1. Special nuclear material:[2]		
A. Licenses for possession and use of 5 kg or more of contained uranium 235 in uranium enriched to 20 pct or more, or more than 2 kg of uranium 233, for fuel processing and fabrication.	Application—new licenses	$136,600
	Renewal	76,800
	Amendment:[3]	
	Major—safety and environment.	34,600
	Major—safeguards	8,300
	Minor—safety and environment.	1,400
	Minor—safeguards	3,500
B. Licenses for possession and use of 5 kg or more of contained uranium 235 in uranium enriched to less than 20 pct, for fuel processing and fabrication.	Application, new license	124,800
	Renewal	71,900
	Amendment:[3]	
	Major—safety and environment.	34,600
	Major—safeguards	6,900
	Minor—safety and environment.	1,400
	Minor—safeguards	3,500
C. Licenses for possession and use of more than 2 kg of plutonium for fuel processing and fabrication.[4]	Application for construction approval.	530,300
	License fee	241,600
	Renewal	170,800
	Amendment:[3]	
	Major—safety and environment.	75,000
	Major—safeguards	13,800
	Minor—safety and environment.	1,400
	Minor—safeguards	6,200
D. Licenses for possession and use of more than 5 kg of contained uranium 235 or uranium 233 for activities other than fuel processing and fabrication.	Application-new license	34,600
	Renewal	18,000
	Amendment:	
	Safety and environment	1,400
	Safeguards	2,800
E. Licenses for possession and use of quantities of plutonium exceeding 2 kg for activities other than fuel processing and fabrication.	Application—new license	62,300
	Renewal	38,100
	Amendment:	
	Safety and environment	1,400
	Safeguards	6,900
F. Licenses for possession and use of 200 g to 2 kg of plutonium	Application, new license	47,100
	Renewal	29,800
	Amendment:	
	Safety and environment	1,400
	Safeguards	4,800
G. Licenses for possession and use of 350 g to 5 kg of contained uranium-235 or 200 g to 2 kg of uranium-233.	Application, new license	20,800
	Renewal	11,100
	Amendment:	
	Safety and environment	1,400
	Safeguards	2,800

Category of materials licenses	Type of fee[1]	Fee
H. Licenses for receipt and storage of spent reactor fuel [4]	Application, new license	335,400
	Renewal	32,000
	Amendment: [3]	
	Major, safety and environment.	88,500
	Major, safeguards	6,200
	Minor, safety and environment.	3,500
	Minor, safeguards	3,500
I. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems.	Application, new license	190
	Renewal	150
	Amendment	40
J. All other special nuclear material licenses, except licenses authorizing special nuclear material in combination that would constitute a critical quanity as defined in sec. 150.11 of pt. 150 which shall pay the same rate as category 1G.	Application, new license	460
	Renewal	460
	Amendment	110
2. Source material:		
A. Licenses for possession and use of source material in milling operations, except in situ leaching and heap-leaching operations.[4]	Application, new license	107,700
	Renewal	100,800
	Amendment: [3]	
	Major, safety and enivronment.	20,800
	Minor, safety and environment.	3,500
B. Licenses for processing and recovery of source material in in situ leaching operations or heap-leaching operations.[4]	Application, new license (production scale activity).	66,500
	Application, new license (R. & D. Scale Activity).	23,800
	Renewal	17,300
	Amendment	4,200
C. Licenses for refining uranium mill concentrates to uranium hexafluoride.[4]	Application, new license	107,700
	Renewal	45,800
	Amendment: [3]	
	Major, safety and environment.	20,800
	Minor, safety and environment.	3,500
D. All other source material licenses	Application, new license	140
	Renewal	70
	Amendment	40
3. Byproduct material:		
A. Licenses for possession and use of byproduct material issued pursuant to pts. 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	Application, new license	460
	Renewal	460
	Amendment	110
B. Licenses issued pursuant to sec. 32.72 of this chapter authorizing the processing or manufacture and distribution of radio-pharmaceuticals containing byproduct material.	Application, new license	190
	Renewal	150
	Amendment	40
C. Licenses for byproduct material issued pursurnt to pt. 34 of this chapter for industrial radiography operations at one location.	Application, new license	190
	Renewal	150
	Amendment	40
D. Licenses for byproduct material issued pursuant to pt. 34 of this chapter for industrial radiography operations at more than one location.	Application, new license	460
	Renewal	460
	Amendment	110
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials where the source is not removed from its shield (self-shielded units).	Application, new license	190
	Renewal	150
	Amendment	40
F. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials where the source is exposed for irradiation purposes.	Application, new license	460
	Renewal	460
	Amendment	110
G. Licenses issued pursuant to subpt. B of pt. 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons generally licensed under pts. 31 or 35 of this chapter, except specific licenses authorizing redistribution of items which have been manufactured or imported under a specific license and licensed by the Commission for distribution to persons generally licensed under pts. 31 or 35 of this chapter.	Application, new license	950
	Renewal	570
	Amendment	230
H. Licenses issued pursuant to subpt. A of pt. 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons exempt from the licensing requirements of pt. 30 of this chapter, except (1) secs. 32.11 and 32.18 of this chapter, (2) specific licenses authorizing redistribution of items and quantities which have been manufactured or imported under a specific license and licensed by the Commission for distribution to persons exempt from the licensing requirements of pt. 30 of this chapter, and (3) specific licenses which authorize distribution of timepieces, hands, and dials.	Application, new license	950
	Renewal	570
	Amendment	230
I. Licenses issued pursuant to sec. 32.18 of this chapter to distribute quantities of byproduct material to persons exempt from the licensing requirements of Pt. 30 of this chapter.	Application, new license	190
	Renewal	150
	Amendment	40
J. Licenses issued pursuant to sec. 32.14 of this chapter to distribute timepieces, hands and dials, containing hydrogen 3 or promethium 147 to persons exempt from the licensing requirements of pt. 30 of this chapter.	Application, new license	190
	Renewal	150
	Amendment	40
K. Licenses for possession and use of byproduct material for research and development, except those licenses covered by categories 3A or 3B, and licenses covered by categories 7B or 7C authorizing medical research.	Application, new license	190
	Renewal	150
	Amendment	40
L. All other specific byproduct material licenses, except those in categories 4A through 10B.	Application, new license	110
	Renewal	110
	Amendment	40
4. Waste disposal:		
A. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of commercial disposal by land or sea burial by the waste disposal licensee.[4]	Application, new license	323,100
	Renewal	98,500
	Amendment: [3]	
	Major, safety and environment.	197,700
	Minor, safety and environment.	690
B. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	Application, new license	1,100
	Renewal	570
	Amendment	570
C. Waste disposal licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	Application, new license	190
	Renewal	150
	Amendment	40

Category of materials licenses	Type of fee [1]	Fee
5. Well logging and well surveys and tracer studies:		
A. Licenses for possession and use of special nuclear material and/or byproduct material for well logging, well surveys, and tracer studies.	Application, new license	460
	Renewal	460
	Amendment	110
6. Nuclear laundries:		
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	Application, new license	460
	Renewal	460
	Amendment	110
7. Human use of byproduct material, source material, or special nuclear material:		
A. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	Application, new license	300
	Renewal	270
	Amendment	40
B. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter to medical institutions, or 2 or more physicians on a single license, for human use of byproduct material, source material, or special nuclear material, except licenses in category 7A.	Application, new license	190
	Renewal	150
	Amendment	40
C. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter to an individual physician for human use of byproduct material, source material, or special nuclear material, except licenses in category 7A.	Application, new license	190
	Renewal	150
	Amendment	40
8. Civil defense: A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	Application, new license	190
	Renewal	150
	Amendment	40
9. Device, product, or sealed source safety evaluation:		
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices and devices or products distributed to general licensees or persons exempt from the requirements for a license pursuant to pts. 30, 40, and 70 of this chapter.	Application, evaluation	570
B. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material except reactor fuel and sealed sources distributed to general licensees or persons exempt from the requirements for a license pursuant to pts. 30, 40, and 70 of this chapter.	Application, evaluation	110
10. Power source: A. Licenses for the manufacture and distribution of encapsulated byproduct material or special nuclear material for use in power generation, except reactor fuel.	Application, new license	1,900
	Renewal	460
	Amendment	460
11. Transportation of licensed material:		
A. Evaluation of spent fuel casks and air shipping packages for plutonium.	Application, evaluation	83,100
	Amendment:	
	Major	6,900
	Minor	3,500
B. Evaluation of high level waste casks and large irradiator packages.	Application, evaluation	76,200
	Amendment:	
	Major	6,900
	Minor	3,500
C. Evaluation of all other packages	Application, evaluation	6,900
	Amendment:	
	Major	3,500
	Minor	600
12. Special projects: [5]		

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[1] Types of fees: Separate charges as shown in this schedule will be assessed for applications for new licenses, amendments, and renewals to existing licenses. The following guidelines apply to these charges:

a. Application fees: Applications for materials licenses covering more than one fee category shall be accompanied by the prescribed application fee for each category. Where a license has expired, the full application fee shall be due.

b. Renewal fees: Applications for renewal covering more than one fee category shall be accompanied by the prescribed fee for each category.

c. Amendment fees: Applications for amendments will not be accepted for filing unless accompanied by the prescribed amendment fee, except for categories 1A, 1B, 1C, 1H, 2A, 2C, 4A, 11A, 11B, and 11C, where the fee is due upon notification by the Commission. Applications for amendments covering more than one fee category shall be accompanied by the prescribed fee for each category. Applications for amendments increasing the scope of a program to a higher fee category will not be accepted for filing unless accompanied by the prescribed amendment fee for the higher fee category. Applications to terminate licenses shall not be subject to fees.

[2] Licensees paying fees under categories 1A through 1G are not subject to fees under categories 1H and 1I for sealed sources authorized in the same licenses.

[3] A major amendment is defined as one requiring evaluation of many aspects of licensed activities where the proposed action could present a potential risk to the public health and safety. A minor amendment is defined as one that is primarily administrative in nature, where safety and environmental or safeguards considerations may be easily resolved.

[4] When review of application is complete, all fees will be checked against professional manpower and related contractual services required to process the application and in no event will fees exceed those shown in the Schedule of Materials License Fees.

[5] Special projects encompass those activities for which the review is not intended to result in a license and for which a fee is not stated numerically in this part. The charge will be assessed based on the professional manpower required to conduct the review, multiplied by the applicable cost per man-year, plus any program support (contractual) costs incurred.

11. Section 170.32 is added to read:

§ 170.32 Schedule of fees for health and safety, and safeguards inspections for materials licenses.

Schedule of materials license inspection fees

Category of materials licenses	Type of fee [1]	Fee [2]	Minimum frequency [3]
1. Special nuclear material:			
A. Licenses for possession and use of 5 kg or more of contained uranium 235 in uranium enriched to 20 pct or more, or more than 2 kg of uranium 233, for fuel processing and fabrication.	Health and safety.	$5,300	3/yr.
	Safeguards	10,300	3/yr.
B. Licenses for possession and use of 5 kg or more of contained uranium 235 in uranium enriched to less than 20 pct for fuel processing and fabrication.	Health and safety.	5,300	3/yr.
	Safeguards	10,300	1/yr.
C. Licenses for possession and use of more than 2 kg of plutonium for fuel processing and fabrication.	Health and safety.	4,600	4/yr.
	Safeguards	11,700	3/yr.

Category of materials licenses	Type of fee [1]	Fee [2]	Minimum frequency [3]
D. Licenses for possession and use of more than 5 kg of contained uranium 235 or uranium 233 for activities other than fuel processing and fabrication.	Health and safety.	4,900	1/yr.
	Safeguards........	7,600	2/yr.
E. Licenses for possession and use of quantities of plutonium exceeding 2 kg for activities other than fuel processing and fabrication.	Health and safety.	790	1/yr.
	Safeguards........	5,400	2/yr.
F. Licenses for possession and use of 200 grams to 2 kg of plutonium.	Health and safety.	780	1/yr.
	Safeguards........	2,300	1/yr.
G. Licenses for possession and use of 350 grams to 5 kg of contained uranium 235 or 200 g to 2 kg of uranium 233.	Health and safety.	780	1 every 2 yr.
	Safeguards........	4,000	1/yr.
H. Licenses for receipt and storage of spent reactor fuel..........	Health and safety.	780	1/yr.
	Safeguards........	2,900	2/yr.
I. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems.	Health and safety.	330	1 every 5 yr.
J. All other special nuclear material licenses......................	Health and safety.	780	1/yr.
2. Source material:			
A. Licenses for possession and use of source material in milling operations, except in situ leaching and heap-leaching operations.	.....do...........	1,800	1/yr.
B. Licenses for processing and recovery of source material in in situ leaching operations or heap-leaching operations.	.....do...........	1,800	1/yr.
C. Licenses for refining uranium mill concentrates to uranium hexafluoride.	.....do...........	1,800	1/yr.
D. All other source material licenses.............................	.....do...........	460	1 every 2 yr.
3. Byproduct material:			
A. Licenses for possession and use of byproduct material issued pursuant to pts. 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	.....do...........		
	Large program...	1,600	1/yr.
	Small program...	780	1/yr.
B. Licenses issued pursuant to sec. 32.72 of this chapter authorizing the processing or manufacture and distribution of radiopharmaceuticals containing byproduct material.	Health and safety.	650	1 every 3 yr.
C. Licenses for byproduct material issued pursuant to pt. 34 of this chapter for industrial radiography operations at one location.	.....do...........	720	1/yr.
D. Licenses for byproduct material issued pursuant to pt. 34 of this chapter for industrial radiography operations at more than one location.	.....do...........	980	1/yr.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials where the source is not removed from its shield (self-shielded units).	.....do...........	390	1 every 5 yr.
F. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials where the source is exposed for irradiation purposes.	.....do...........	390	1 every 3 yr.
G. Licenses issued pursuant to subpt. B of pt. 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons generally licensed under pts. 31 or 35 of this chapter, except specific licenses authorizing redistribution of items which have been manufactured or imported under a specific license and licensed by the Commission for distribution to persons generally licensed under pts. 31 or 35 of this chapter.	.....do...........	390	Do.
H. Licenses issued pursuant to subpt. A of pt. 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons exempt from the licensing requirements of pt. 30 of this chapter, except (1) secs. 32.11 and 32.18 of this chapter, (2) specific licenses authorizing redistribution of items and quantities which have been manufactured or imported under a specific license and licensed by the Commission for distribution to persons exempt from the licensing requirements of pt. 30 of this chapter, and (3) specific licenses which authorize distribution of timepieces, hands, and dials.	.....do...........	390	Do.
I. Licenses issued pursuant to sec. 32.18 of this chapter to distribute quantities of byproduct material to persons exempt from the licensing requirements of pt. 30 of this chapter.	.....do...........	390	Do.
J. Licenses issued pursuant to sec. 32.14 of this chapter to distribute timepieces, hands and dials, containing hydrogen 3 or promethium 147 to persons exempt from the licensing requirements of pt. 30 of this chapter.	.....do...........	390	Do.
K. Licenses for possession and use of byproduct material for research and development, except those licenses covered by categories 3A or 3B, and licenses covered by categories 7B or 7C authorizing medical research.	.....do...........	390	Do.
L. All other specific byproduct material licenses, except those in categories 4A through 10B.	.....do...........	390	1 every 5 yr.
4. Waste disposal:			
A. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of commercial disposal by land or sea burial by the waste disposal licensee.	.....do...........	980	1/yr.
B. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	.....do...........	650	1 every 3 yr.
C. Waste disposal licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	.....do...........	650	Do.
5. Well logging and well surveys and tracer studies, A. Licenses for possession and use of special nuclear material and/or byproduct material for well logging, well surveys, and tracer studies.	.....do...........	520	Do.
6. Nuclear laundries, A. Licenses for commerical collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	.....do...........	590	Do.

Category of materials licenses	Type of fee[1]	Fee[2]	Minimum frequency[3]
7. Human use of byproduct material, source material, or special nuclear material:			
A. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	do	460	1 every 2 yr.
B. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter to medical institutions, or two or more physicians on a single license, for human use of byproduct material, source material, or special nuclear material, except licenses in category 7A.	do	460	1 every 3 yr.
C. Licenses issued pursuant to Parts 30, 40, and 70 of this chapter to an individual physician for human use of byproduct material, source material, or special nuclear material, except licenses in Category 7A.	do	330	Do.
8. Civil defense: A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	do	200	1 every 10 yr.
9. Device, product, or sealed source safety evaluation:			
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices and devices or products distributed to general licensees or persons exempt from the requirements for a license pursuant to pts. 30, 40, and 70 of this chapter.	Not applicable		No inspections conducted
B. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material except reactor fuel and sealed sources distributed to general licensees or persons exempt from the requirements for a license pursuant to pts. 30, 40, and 70 of this chapter.	do		Do.
10. Power source: A. Licenses for the manufacture and distribution of encapsulated byproduct material or special nuclear material for use in power generation, except reactor fuel.	Health and safety.	780	1/yr.
11. Transportation of licensed material:			
A. Evaluation of spent fuel casks and air shipping packages for plutonium.	Not applicable		No inspections conducted.
B. Evaluation of high level waste casks and large irradiator packages.	do		Do.
C. Evaluation of all other packages	do		Do.

[1] Types of fees: Separate charges as shown in this schedule will be assessed for each routine inspection which is performed at frequencies prescribed by the Office of Inspection and Enforcement. Routine inspections are health and safety, and safeguards inspections performed at specified frequencies for purposes of reviewing a licensed program to assure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, Commission regulations, and the terms and conditions of the license. These inspections involve, as necessary, direct observations of operations, personnel interviews, independent measurements and evaluations, and selective record and procedure examinations.

[2] Inspection fees are due upon receipt of notice from the Commission. The inspection fee for licenses covering more than one fee category will be charged only for the highest fee category assigned the license, if the inspection of the entire license is done at the same time. Where a licensee holds more than one materials license at a single location, a fee equal to the highest fee category covered by the licenses will be assessed, if the inspections are conducted at the same time.

[3] The frequency and scope of inspection depends upon the type of licensed activities, the quantities of material used or processed, the inherent potential safety hazards, and problems experienced by licensees and previous inspection findings.

[4] For inspection purposes, large and small programs in Category 3A are defined as follows:

a. Large programs: Those licensees handling or processing loose or unsealed material for the manufacture of tagged compounds or products, such as sealed sources and distribution of same to others.

b. Small programs: Those licensees who are processors of "finished products", such as previously tagged compounds and sealed sources for introduction into products or repackaging for sale to others.

12. Section 170.41 of Part 170 is amended to read as follows:

§ 170.41 Failure by applicant or licensee to pay prescribed fees.

In any case where the Commission finds that an applicant or a licensee has failed to pay a prescribed fee required in this part, the Commission will not process any application and may suspend or revoke any license involved or may issue an order with respect to licensed activities as the Commission determines to be appropriate or necessary in order to carry out the provisions of this part, Parts 30, 40, 50, and 70 of this chapter, and of the Act.

(Sec. 501, 65 Stat. 290; (31 U.S.C. 483a).)

For the U.S. Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-12447 Filed 4-27-77;11:30 am]

[10 CFR Part 2]

RULES OF PRACTICE

Miscellaneous Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending certain sections of its "Rules of Practice" to facilitate public participation in its facility license application review and hearing process, to improve coordination with States, counties, and municipalities, and to make certain other improvements.

DATES: Comment period expires on June 16, 1977.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Mr. Marc R. Staenberg, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301-492-7437).

SUPPLEMENTARY INFORMATION: In 1972, the Atomic Energy Commission (now the Nuclear Regulatory Commission)[1] undertook a comprehensive and in-depth examination of its Rules of Practice with a view toward expediting the decision process. As a result, comprehensive amendments to the Rules of Practice in 10 CFR Part 2 were proposed in May 1972 (37 FR 9331) and, after consideration of public comments, effective amendments were published in July 1972 (37 FR 15127).

Experience under the restructured rules suggests the desirability of certain additional improvements. These are described below.

1. *Petitions to intervene.* The present rule, § 2.714, requires that petitions for leave to intervene include both the petitioner's contentions and an affidavit which sets forth with particularity how petitioner's interest may be affected and the bases for petitioner's contentions in the proceeding. Current practice has generally provided 30 days between the date a notice of hearing or notice of proposed action on an application for a nuclear power plant construction permit or operating license is published in the FEDERAL REGISTER and the last date for filing of timely petitions for leave to intervene. In contrast, the time generally required for complete review of the application for a nuclear power plant construction permit or operating license is over one year. Any contested hearings on such applications would likely commence more than six months after the expiration of the time for receipt of timely intervention petitions.

Experience has indicated that 30 days is often insufficient for potential petitioners to frame and support adequate contentions. It has become common practice for parties and petitioners in nuclear power plant licensing proceedings to discuss informally the framing of contentions until just before the special prehearing conference which is held some months or more after expiration of the 30 day period for timely petitions pursuant to § 2.751a. During this period the contentions are frequently revised based on the discussions among the parties and petitioners. Often the petitioners and parties will be able to present the presiding atomic safety and licensing board with an agreed upon set of contentions at the special prehearing conference. This practice reduces unnecessary controversy and litigation and should be encouraged. Accordingly, it is proposed to amend the rules to permit the filing of contentions until shortly before the special prehearing conference. In this connection, it is also proposed to amend § 2.751a, which generally provides for a special prehearing conference within 60 days after the notice of hearing, to generally provide for a special prehearing conference within 90 days of the notice of hearing. This amendment more closely conforms with present practice. Timely petitions to intervene which address the petitioners' interest in the proceeding would still be filed within the initial 30 day period. At the same time, adequate time for discovery and preparation for hearing should remain, so that the time required for completion of the formal hearing process should be the same.

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[1] Pursuant to the Energy Reorganization Act of 1974, as amended, the Atomic Energy Commission was abolished and replaced by the Energy Research and Development Administration (ERDA) and the Nuclear Regulatory Commission (NRC). The NRC assumed the licensing and related regulatory functions of the AEC.

At present, § 2.714(c) provides that answers to a petition for leave to intervene must be filed by a party within 5 days after the petition for leave to intervene is filed. The Staff is given 10 days to answer. Experience has indicated that the present time limits are too short. It is therefore proposed to increase the time allowed to answewr petitions to 10 days for parties and to 15 days for the Staff.

It is also proposed to abolish the requirement that an affidavit accompany petitions to intervene. Experience has shown that such affidavits do not serve a useful purpose at this early stage in licensing proceedings.

2. *Late filing of petitions and contentions.* At present, § 2.714 provides that late filed petitions will not be admitted absent a determination that petitioner has made a substantial showing of good cause and with reference to a balancing of specified factors. There is no provision in § 2.714 which specifically addresses the matter of amending or expanding contentions after a petitioner has been admitted as a party. Yet contentions are frequently expanded or amended because of new information which comes to light after petitioners have been admitted, such as information in the Commission Staff's safety evaluation or environmental impact statements.

It is proposed to amend § 2.714 in the interest of clarifying the requirements in regard to both late filings of petitions and amending, expanding, and deleting contentions. First, it is proposed to amend § 2.714 to outline clearly the factors which need to be considered and balanced before the presiding officer passes upon the admissibility of late filings. In essence, the amendment makes clear that good cause is one factor to be balanced along with others in determining whether a late filing will be admitted. Second, it is proposed that § 2.714 be revised to specifically provide that late filed contentions (a contention or amended contention which is filed after 15 days prior to the special prehearing conference or, where there is no special prehearing conference, first prehearing conference) will be considered for admission under the clarified criteria set forth in subparagraph (a)(1). Third, revised § 2.714 is intended to make clear that late filed contentions must meet the same requirements as timely filed contentions. That is, a proposed contention must be set forth with particularity and with the factual basis for it given. Finally, this section has been generally reorganized to make the language more clear and to incorporate the present practice of granting intervention based upon adequate interest and at least one adequate contention.

3. *Time for staff answers and mailings.* There are several sections in the Commission's "Rules of Practice" (e.g., §§ 2.714(c) and 2.730) which provide the Commission's Staff with additional time for certain filings. For example, the Staff is provided slightly more time than other parties to answer certain motions. Originally, this was intended to enable the Staff to consider other parties' answers (or other filings) before responding itself.

Due to the small amount of additional time provided the Staff and the interplay of the various sections with § 2.710 (Computation of time) the Staff in many cases has been actually provided little or no additional time during which to review other parties' filings, contrary to the intent of the rules. At present, § 2.710 provides that where a party is given less than 7 days in which to answer, weekends and holidays are excluded from the computation of time; if more than 7 days is given weekends and holidays are included. Thus, in those instances where parties are allowed 5 days to file (8 days including time for mailing under § 2.710) and the Staff is allowed 10 days to file (13 days including time for mailing), the result is that rather than there being 5 days difference there may be as little as one. It is therefore proposed to amend § 2.710 to allow that where a party is given 10 days or less to file (excluding time for mailing) it may exclude weekends and holidays from the computation of its time.

4. *Expanded participation: Limited appearances at prehearings, interested counties and cities, and "Amicus" participation.* Section 2.715 set forth the ground rules for limited appearances at NRC proceedings and for participation by interested States without the necessity for their being admitted as a party under § 2.714. This form of participation by members of the public and the States has been a welcome and valuable part of the Commission's licensing proceedings.

(a) At present, the Rules of Practice (§ 2.714(a)) provide for limited appearances, at the presiding officer's discretion, during the course of a proceeding. This discretion has been exercised to permit limited appearances at a hearing but has generally excluded such appearances at prehearing conferences. Since prehearing conferences often precede the hearing by several months, members of the public are sometimes understandably disappointed when they learn that their limited appearance must be postponed until some uncertain date in the future. Experience indicates that members of the public are often interested in making their limited appearances early in the licensing process. It is therefore proposed to amend § 2.715(a) to clarify that limited appearances may be allowed at prehearing conferences as well as at the hearing.

(b) Section 2.715(c) of the Commission's Rules of Practice implements section 274 of the Atomic Energy Act to permit interested States to participate in NRC licensing proceedings without taking a position with respect to the issues. This type of cooperation could be extended to other units of government which also have an interest in the licensing proceeding. It is therefore proposed to expand § 2.715(c) to include interested cities, counties, and agencies thereof. In addition, it is proposed to provide specifically in § 2.715(c) that such interested States, counties, cities, and agencies thereof may, in addition to participation at the hearing, file proposed findings of fact and conclusions of law pursuant to § 2.754 and file exceptions (requests for appeal) pursuant to § 2.762. It is, however, further proposed that the presiding officer have discretion to require such participants to indicate, in advance of the hearing, the subject matters on which they desire to participate. These proposals conform to present practice.

(c) At present, there is no specific provision in Part 2 for participation in appeals before the Atomic Safety and Licensing Appeal Board or Commission by a person in an "amicus" capacity on particular legal or factual issues. Although discretion already rests with the Commission or Appeal Board to permit such "amicus" participation, it is proposed to add a new paragraph (d) to § 2.715 to set forth specifically the guidelines for such participation. It is envisioned that a person who is not a party and who seeks to so participate will move for permission to file a brief in support of an existing party. Oral argument will be granted to such persons at the discretion of the Appeal Board or the Commission.

5. *Consolidated and joint hearings with States.* At present, the rules (§§ 2.402 and 2.716) provide that the Commission may consolidate for hearing two or more proceedings if it finds that consolidation is desirable. It is here proposed to extend the authority to consolidate two or more proceedings to Atomic Safety and Licensing Boards. There appears to be no good reason why such authority should only rest with the Commission or Atomic Safety and Licensing Appeal Board.

It is also proposed to amend § 2.716 to provide specific authority to hold joint hearings with States and/or other Federal agencies on matters of concurrent jurisdiction provided that the Commission's Rules of Practice are not waived. Joint hearings promise to minimize duplication in the reviews by the Commission, State and/or Federal agencies, and improve State and interagency coordination. Whether joint hearings should be held will be determined on a case-by-case basis.

6. *Earlier filing of written testimony.* At present, § 2.743(b) provides that writ-

ten testimony must be served on each other party at least 5 days in advance of the session of the hearing at which the testimony is to be presented. In light of experience which suggests that 5 days is often too short for review of testimony, it is proposed to amend the time for filing testimony to 15 days in advance of the hearing at which it will be presented. This proposed amendment is also offered in response to a petition for rule making filed with the Commission by Forelaws on Board and the Coalition for Safe Power (Docket No. PRM-2-3). The petitioners requested that § 2.743(b) be changed to provide that written testimony be filed "at least thirty (30) days in advance of the hearing * * * unless otherwise agreed upon by all parties and the presiding officer." Notice of receipt of the petitions and a request for public comment was published on September 7, 1976 (41 FR 37605). One comment, opposed to the petition, was received.

The Commission has given consideration to the petition, comment, and its own experience in proposing to change the time for filing testimony from 5 days to 15 days in advance of the hearing. It was necessary, in reaching this position, to balance the needs of parties to have adequate time to consider written testimony and prepare for the hearing, with the Commission's goal of avoiding unwarranted delays. The Commission believes that the 30 day period suggested by petitioners would be unnecessarily long in the majority of cases. At the same time, the rules allow the presiding officer flexibility to impose a greater than 15 day period for advance filing of written testimony—including 30 days—in complex cases.

7. *Summary disposition.* Motions for summary disposition have proved to be a very valuable tool for disposing of issues which have little arguable merit. However, § 2.749 does not provide adequate time limits for such motions. At present, motions for summary disposition must be filed 10 days before the time fixed for the hearing and answers must be filed 2 days before the date of hearing.

Usually such motions are filed well before these dates and contain an extensive factual presentation. Thus, these filing times do not give parties a reasonable period of time in which to respond nor the presiding officer adequate time to consider the response.

It is, therefore, proposed to amend § 2.749 to require that (1) motions for summary disposition be filed at least 45 days before the time fixed for evidentiary hearings and (2) answers be filed within 20 days after service of the motion, unless other time limits are specified by the presiding officer. It is expected that this will facilitate responses to motions for summary disposition and consideration of the motions and answers by presiding boards. It is hoped that with adequate time, last minute delays in commencement of hearings caused by such motions may be avoided.

8. *Findings and conclusions.* Review of § 2.754, which sets forth the time requirements for the filing of findings of fact and conclusions of law, revealed an apparent inconsistency between the general language of paragraph (a) and the more specific provision of paragraph (b). In addition, experience suggests that the time limits established in paragraph (b) are too short.

It is therefore proposed to revise § 2.754 (a) and (b) to clarify the time requirements under which parties must file, unless otherwise provided by the presiding officer. In addition, its is proposed to increase the time allowed parties, pursuant to subparagraphs (a)(1) and (a)(2), to file their findings and conclusions. It is expected that this increased time will allow sufficient time for the filing of findings and conclusions in ordinary cases.

9. *Additional briefing time on exceptions to initial decisions.* At present, § 2.762(a) provides that within 7 days after service of an initial decision, any party may take an appeal to the Commission by the filing of exceptions to that decision or designated portions thereof. Section 2.762(a) further provides that briefs in support of exceptions must be filed within 15 days (20 days for the Staff) after the filing of exceptions. Experience has shown that these time periods are often too short. The result has been that parties do not have adequate opportunity to thoroughly consider the initial decision and brief exceptions.

It is therefore proposed to amend § 2.762(a) to provide that exceptions, if any, must be filed within 10 days after service of the initial decision and that briefs in support of exceptions must be filed within 30 days (40 days for the Staff) after the filing of exceptions. It is hoped that this will offer sufficient time for improved briefs and less reason for filing requests for additional time.

In proposing these amendments, the Commission recognizes both an obligation to the segment of the public participating in the Commission's licensing process to provide an adequate forum for the consideration and resolution of their concerns, and a responsibility to the general public to arrive at sound licensing decisions in a timely fashion. The Commission expects that these proposed amendments will improve the hearing process without causing significant delays in reaching sound licensing decisions.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments of 10 CFR Part 2 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Section 2.402(b) is amended as follows:

§ 2.402 [Amended]

1. In § 2.402(b) of 10 CFR Part 2, the expression "or presiding officer" is inserted immediately following the phrase "the Commission".

§ 2.710 [Amended]

2. In § 2.710, the expression "less than seven (7) days" is changed to "ten (10) days or less" and the phrase "three (3) days" is changed to "five (5) days".

3. In § 2.714, paragraphs (a), (b), and (c) are revised to read as follows:

§ 2.714 Intervention.

(a)(1) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition for leave to intervene. In a proceeding noticed pursuant to § 2.105, any person whose interest may be affected may also request a hearing. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, or as provided in § 2.102(d)(3). Non-timely filings will not be entertained absent a determination by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors in addition to those set out in paragraph (d) of this section:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(2) The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (d) of this section, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

(3) Any person who has filed a petition for leave to intervene or who has been admitted as a party pursuant to this section may alter his petition for leave to intervene by amendments, deletions, or additions. A petition may be so amended without prior approval of the presiding officer at any time up to fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing confer-

ence is held, fifteen (15) days prior t[illegible] the holding of the first prehearing co[illegible]ference. After this time a petition may be so amended only with approval of the presiding officer, based on a balancing of the factors specified in paragraph (a)(1) of this section. Such an amended petition for leave to intervene must satisfy the requirements of this paragraph (a) of this section pertaining to specificity.

(b) Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a suplement which satisfies the requirements of this paragraph with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in paragraph (a)(1) of this section.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene within ten (10) days after the petition is filed, with particular reference to the factors set forth in paragraph (d) of this section. However, the staff may file such an answer within fifteen (15) days after the petition is filed.

* * * * *

4. In § 2.715, paragraph (a) is amended by adding the phrase "at any session of the hearing or any prehearing conference" immediately following the phrase "on the issues", paragraph (c) is revised and a new paragraph (d) is added to read as follows:

§ 2.715 Participation by a person not a party.

* * * * *

(c) The presiding officer will afford representatives of an interested State, County, municipality, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issues: and further, allow such participants to file proposed findings and exceptions pursuant to §§ 2.754 and 7.762. The presiding officer may require such representative to indicate in advance of the hearing the subject matters on which he desires to participate.

(d) If a matter is taken up by the Appeal Board on appeal or sua sponte or by the Commission pursuant to § 2.786 or sua sponte, a person who is not a party may, in the discretion of the Appeal Board or the Commission, respectively, be permitted to file a brief. A person who is not a party and desires to file a brief must submit a motion for leave to do so which identifies the interest of the person and states the reasons why a brief is desirable. Except as otherwise provided [illegible] Appeal Board, [illegible] be filed within the time allowed to the party whose position the brief will support. A motion of a person who is not a party to participate in oral argument before an Appeal Board or the Commission will be granted at the discretion of the Appeal Board or the Commission.

5. Section 2.716 is revised to read as follows:

§ 2.716 Consolidation of proceedings.

On motion and for good cause shown or on its own initiative, the Commission or the presiding officer may consolidate for hearing or for other purposes two or more proceedings, or may hold joint hearings with interested States and/or other Federal agencies on matters of concurrent jurisdiction, if it finds that such action will be conducive to the proper dispatch of business and to the ends of justice and will be conducted in accordance with the other provisions of this subpart.

§ 2.743 [Amended]

6. In § 2.743(b), the expression "five (5) days" is changed to "fifteen (15) days".

§ 2.749 [Amended]

7. In § 2.749(a), the expression "ten (10) days" in the first sentence is changed to "forty-five (45) days" and the phrase "at least two (2) days before the date of the hearing" in the third sentence is changed to "within twenty (20) days after service of the motion".

§ 2.751a [Amended]

8. In § 2.751a, the expression "sixty (60) days" is changed to "ninety (90) days".

9. In § 2.754, paragraphs (a) and (b) are revised to read as follows:

§ 2.754 Proposed findings and conclusions.

(a) Any party to a proceeding may, or if so directed by the presiding officer shall, file proposed findings of fact and conclusions of law, briefs and a proposed form of order or decision within the time provided by the following subparagraphs, except as otherwise ordered by the presiding officer:

(1) The party who has the burden of proof shall, within twenty (20) days after after the record is closed, file proposed findings of fact and conclusions of law and briefs, and a proposed form of order or decision.

(2) Other parties may file proposed findings, conclusions of law and briefs within thirty (30) days after the record is closed. However, the staff may file such proposed findings, conclusions of law and briefs within forty (40) days after the record is closed.

(3) A party who has the burden of proof may reply within ten (10) days after service of proposed findings and conclusions of law and briefs by other parties.

(b) Failure to file proposed findings of fact, conclusions of law or briefs when directed to do so may be deemed a default, and an order or initial decision may be entered accordingly.

* * * * *

§ 2.762 [Amended]

10. In § 2.762(a) the expression "7 days" is changed to "ten (10) days", the expression "fifteen (15) days" is changed to "thirty (30) days" and the phrase "(twenty (20) days in the case of the staff)" is changed to "(forty (40) days in the case of the staff)."

11. In section II(a) of Appendix A to 10 CFR Part 2, the expression "sixty (60) days" is changed to "ninety (90) days".

12. In section III of Appendix A, paragraphs (a)(1) and (a)(2) are revised to read as follows:

III. INTERVENTION AND LIMITED APPEARANCES

(a)(1) As required by § 2.714, a person who wishes to intervene must set forth, in a petition for leave to intervene, his interest in the proceeding and how the interest may be affected by Commission action. Petitions for leave to intervene shall, as a basis for enabling the board or the Commission to determine how the petitioner's interest may be affected by the proceeding, set forth (i) the nature of his right under the Act to be made a party to the proceeding, (ii) the nature and extent of the interest that may be affected by the proceeding, and (iii) the effect of any order which may be entered in the proceeding on the petitioner's interest. The petition must identify the specific aspects as to which the petitioner wishes to intervene and set forth with particularity the facts pertaining to his interest. The petitioner must file a supplement to his petition containing his contention(s) and bases therefor not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a. After consideration of any answers to the petition, the board will rule on the petition. If the board finds that the petitioner's interest is limited to one or more of the issues in the proceeding, the intervenor's participation will be limited to those issues.

Petitions and supplements thereto which set forth contentions relating only to matters outside the jurisdiction of the Commission will be denied. In any event, the granting of a petition for leave to intervene does not operate to enlarge the issues, or become, a basis for receipt of evidence, with respect to matters beyond the jurisdiction of the Commission.

(2) Petitions for leave to intervene which are not filed within the time specified in the notice of hearing will not be granted unless the board determines that the petition should be granted based upon paragraph (a)(1) of this section and upon a balancing of (i) good cause, if any, for petitioner's failure to file on time, (ii) the availability of other means whereby the petitioners' interest will be protected, (iii) the extent to which petitioner's participation may reasonably be expected to assist in developing a sound record, (iv) the extent to which petitioner's interest will be represented by existing parties, and (v) the extent which the petitioner's participation will broaden the issues or delay the proceedings.

* * * * *

13. In section V(d)(2) of Appendix A, the expression "at least 5 days" is changed to "at least 15 days."

14. In section IX(d)(1) of Appendix A, the third sentence is revised to read as follows: "A brief in support of the exceptions shall be filed by the appellant

within 30 days thereafter (40 days in the case of the staff)".

* * * * *

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 27th day of April 1977.

For the Nuclear Regulatory Commission,

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-12576 Filed 4-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-CE-10-AD]

BEECH MODELS 60, A60 AND B60 AIRPLANES

Proposed Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to add an Airworthiness Directive (AD) that would require installation of drain holes in the fuselage of certain Beech Models 60, A60 and B60 airplanes to preclude the accumulation of water that can subsequently freeze during flight and prevent or restrict movement of the elevator controls, which could result in the aircraft becoming difficult for the pilot to control.

DATES: Comments must be received on or before June 12, 1977.

ADDRESSES: Send comments on the proposal to: FAA, Central Region, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 77-CE-10-AD, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone 816-374-3446.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number, and be submitted in duplicate to the FAA, Office of the Regional Counsel, Central Region, Attention: Rules Docket Clerk, Docket No. 77-CE-10-AD, 601 East 12th Street, Kansas City, Missouri 64106. All comments received on or before June 12, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comm[illegible] available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

There have been reports of water collecting in the fuselage, freezing and thereby restricting movement of elevator controls on Beech Model 60 and A60 airplanes. These reports show that water seeps into the fuselage around the cabin door while aircraft are on the ground and collects around the elevator control cables just aft of the wing rear spar carry through structure in the bottom of the fuselage. When aircraft encounter low temperatures at high altitudes, the water freezes and prevents or restricts elevator movement. As a result of these occurrences, Beech issued Service Instructions No. 0741-103, Rev. I, applicable to inservice aircraft and began installing drain holes and valves in the critical locations on current production aircraft. The FAA has concluded that lack of these drain holes on inservice airplanes in an unsafe condition that is likely to exist in other airplanes of the same type design. Accordingly, an AD is being proposed that would require installation of five (5) drain holes and valves in the fuselage of certain Beech Models 60, A60 and B60 aircraft in accordance with the aforementioned service instructions. Accomplishment of this modification will correct the unsafe condition.

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD.

BEECH. Applies to Models 60 (Serial Numbers P-3 through P-126 except P-123), A60 (Serial Numbers P-123, P-127 through P-246) and B60 (Serial numbers P-247 through P-346) airplanes certified in all categories.

Compliance: Required as indicated, unless already accomplished.

To prevent collection of water in the bottom of the fuselage, subsequent freezing of the water and resulting restriction of elevator control, within 100 hours' time in service after the effective date of this AD, accomplish the following:

A. Locate and drill five (5) .250 inch diameter drain holes and install five (5) Beech P/N 50-420082-3 drain seals in the bottom of the fuselage in accordance with Beechcraft Service Instructions No. 0741-103, Rev. I, or later approved revisions.

B. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c); sec. 11.81 of the Federal Aviation Regulations (14 CFR 11.81).)

Issued in Kansas City, Mo., on April 21, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-12429 Filed 4-29-77;8:45 am]

[14 CFR Part 71]

[Docket No. 77-SO-11]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Fernandina Beach, Florida, transition area. An ASR approach procedure is being developed for the Fernandina Beach Airport, and additional controlled airspace is required for containment of IFR operations. This action will lower the base of controlled airspace from 1200 to 700 feet in the vicinity of Fernandina Beach to accommodate aircraft executing the ASR approach procedure.

DATES: Comments must be received on or before June 10, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. (404-763-7646).

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airpsace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 10, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW, Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Fernandina Beach, Fla., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft executing ASR approaches to the Fernandina Beach Airport.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Fernandina Beach, Florida

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fernandina Beach Airport (lat. 30°36'34'' N., Long. 81°27'39'' W.); excluding the portion outside the continental limits of the United States.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on April 15, 1977.

George R. LaCaille,
Acting Director,
Southern Region.

[FR Doc.77-12268 Filed 4-29-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-7]

PROPOSED ALTERATION OF CONTROL ZONE[1]

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the Riverside, California (March AFB) Control Zone.

The Riverside, California (March AFB) Control Zone does not incorporate the March AFB TACAN Procedures. Action proposed herein is to include these procedures as Control Zone Extensions and reduce or eliminate the existing Control Zone Extensions as required.

DATE: Comments must be received on or before June 3, 1977.

ADDRESS: Copies of this NPRM may be obtained from: and comments should be sent to: Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Specialist, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, 213-536-6182.

SUPPLEMENTARY INFORMATION: This notice proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171).

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before June 3, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public document will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

Accordingly, the Federal Aviation Administration proposed to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) as follows:

§ 71.171 [Amended]

1. By amending § 71.171 (42 FR 355) of Part 71 of the Federal Aviation Regulations by redesignating the Control Zone and Extensions as follows:

Riverside, California (March AFB)

Within a five mile radius of March AFB (latitude 33°52'50'' N., longitude 117°15'30'' W.); within two miles either side of the March AFB TACAN 150° radial extending from the five mile radius zone to 8.3 miles SE of the TACAN and within two miles either side of the March AFB TACAN 304° radial, extending from the five mile zone to six miles NW of the TACAN.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348 (a)), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Note.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Los Angeles, California on April 20, 1977.

W. R. Frehse,
Acting Deputy Director,
Western Region.

[FR Doc.77-12267 Filed 4-29-77;8:45 am]

Federal Highway Administration

[23 CFR Parts 640 and 642]

[FHWA Docket No. 77-2]

Certification Acceptance and Secondary Road Plan; Correction

AGENCY: Federal Highway Administration, DOT.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule that appeared at page 16734 in the Federal Register of Tuesday, March 29, 1977 (FR Doc. 77-9037).

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Clifford R. Green, Special Procedures Branch, Office of Engineering, 202-426-0334; Kathleen S. Markman, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. EST, Monday to Friday.

The following corrections are made in the preamble to the general comments received from the Center for Auto Safety:

1. On page 16734, right column, comment number 2, "23 CFR 640.111(a)(1)" is corrected to read "23 CFR 640.109(a)(2)(i)(C)."

2. On page 16734, right column, comment number 5, "23 CFR 640.111" is corrected to read "23 CFR 640.109," and

3. On page 16736, left column, comment number 6, "23 CFR 640.111" is corrected to read "23 CFR 640.109."

Issued on: April 25, 1977.

Dowell H. Anders,
Acting Chief Counsel.

[FR Doc.77-12521 Filed 4-29-77;8:45 am]

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[1] Map filed as part of original.

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 215]

WITHHOLDING OF DISTRICT OF COLUMBIA, STATE, AND CITY INCOME OR EMPLOYMENT TAXES BY FEDERAL AGENCIES

Proposed Rulemaking

AGENCY: Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed regulation prescribes procedures for the District of Columbia, States, and cities to follow in order to enter into an agreement with the Secretary of the Treasury covering the withholding of District of Columbia, State or city income or employment taxes by Federal agencies. A standard agreement governing such withholding is also contained in the proposed regulation. It is intended that the proposed regulation will provide the basis for withholding District of Columbia and State income taxes from the compensation of members of the Armed Forces in accordance with the Tax Reform Act of 1976 and will combine District of Columbia, State and city withholding provisions into a single regulation.

DATES: Comments on this proposal must be received on or before May 27, 1977. It is intended that the final version of this regulation will be made effective June 10, 1977.

ADDRESSES: Comments should be addressed to the Fiscal Assistant Secretary, Office of the Secretary, Department of the Treasury, Room 2112, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT THE PRIMARY AUTHOR:

Mr. Allan I. Lund, Government Accounting Systems Staff, Bureau of Government Financial Operations, Room 412, Annex No. 1, Department of the Treasury, Washington, D.C. 20226. (202-566-8374).

SUPPLEMENTARY INFORMATION: The proposed regulation will supersede 31 CFR 215 which presently governs city income or employment tax withholding agreements. The proposed regulation will govern District of Columbia, State, and city income or employment tax withholding agreements. The language of District of Columbia, State and city agreements now in effect is substantially retained in a new Standard Agreement appearing in the proposed regulation; District of Columbia and State income tax withholding from the pay of members of the Armed Forces is also provided for. Existing standard agreements would be replaced by the Standard Agreement appearing in the proposed regulation. Therefore, no action will be necessary on the part of a State or city which currently has a standard agreement. The District of Columbia, a State or city which presently has an agreement which is not a standard agreement, will have its present agreement replaced by the Standard Agreement appearing in the proposed regulation unless a new nonstandard agreement is requested and entered into within 120 days of the date of the final regulation.

The need for the proposed regulation derives from the Tax Reform Act of 1976 which amended 5 U.S.C. 5516, 5517, and (through 5517) 5520. The prohibition in 5 U.S.C. 5516 and 5517 against the Secretary of the Treasury entering into agreements with States and the District of Columbia to withhold State and District income taxes from the pay of members of the Armed Forces was eliminated. It should be noted that, whereas agreements presently in effect provide for withholding on civilian Federal employees based on place of regular employment, the withholding on members of the Armed Forces is based on place of legal residence. The Tax Reform Act of 1976, by amending 5 U.S.C. 5517, also permitted the Secretary of the Treasury to enter into agreements with States to withhold State income taxes from civilian Federal employees and members of the Armed Forces in those States where such wihholding is voluntary. The amendments to 5 U.S.C. 5516 and 5520 (through 5517) exclude from the definition of a member of the Armed Forces those members of the National Guard and the Ready Reserve participating in activities under 32 U.S.C. 502 and 10 U.S.C. 270(a), respectively.

The proposed regulation accommodates the Tax Reform Act amendments noted above. In addition, the proposed regulation combines District, State, and city income or employment tax withholding agreements and procedures into one regulation. It is intended that the proposed regulation will provide a single point of reference for all tax officials and consolidate administrative provisions that relate to withholding agreements at District, State and city levels.

NOTE: The Department of the Treasury has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Accordingly, it is proposed to amend 31 CFR 215 in its entirety to read as follows:

PART 215—WITHHOLDING OF DISTRICT OF COLUMBIA, STATE AND CITY INCOME OR EMPLOYMENT TAXES BY FEDERAL AGENCIES

Subpart A—General Information

Sec.
215.1. Scope of part.
215.2 Definitions.

Subpart B—Procedures

215.3 Relationship of Standard Agreement to existing agreements.
215.4 Procedures for entering into a Standard Agreement.
215.5 Procedures for an agreement other than a Standard Agreement.

Subpart C—Standard Agreement

215.6 In general.
215.7 Parties.
215.8 Compliance by agencies.
215.9 Withholding certificates.

Sec.
215.10 Change of legal residence by members of the Armed Forces.
215.11 Agency withholding procedures.
215.12 Miscellaneous provisions.
215.13 Supersession, amendment and termination provisions.

AUTHORITY: The provisions of this Part are issued under 5 U.S.C. 5516, 5517, and 5520 and section 4 of Executive Order 11968, January 31, 1977 (42 FR 6787).

Subpart A—General Information

§ 215.1 Scope of part.

This part relates to agreements between the Secretary of the Treasury and States, the District of Columbia or cities for withholding of State and city income or employment taxes from the compensation of civilian Federal employees, and for the withholding of State income taxes from the compensation of members of the Armed Forces. Subpart A contains general information and definitions. Subpart B prescribes the procedures to be followed in entering into an agreement for the withholding of State or city income or employment taxes. Subpart C is the Standard Agreement which the Secretary will enter into with any State or city which qualifies to have tax withheld. Requests for deviations from this Standard Agreement will be agreed to by the Secretary only if the State or city's unique circumstances require it.

§ 215.2 Definitions.

As used in this part:

(a) "Agency" means each of the executive agencies and military departments (as defined in 5 U.S.C. 105 and 102, respectively) and the United States Postal Service; and in addition, for city withholding purposes only, all elements of the judicial branch.

(b) "City" means any unit of general local government

(1) Which (A) is classified as a municipality by the United States Bureau of the Census, or

(B) Is a town or township which, in the determination of the Secretary of the Treasury,

(i) Possesses powers and performs functions comparable to those associated with municipalities,

(ii) Is closely settled, and

(iii) Contains within its boundaries no incorporated places as defined by the United States Bureau of the Census; and

(2) Within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government.

(c) "City income or employment taxes" means any form of tax for which, under a city ordinance, (1) collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city; and (2) the duty to withhold generally is imposed on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction. Whether the tax is described as an income, wage, payroll, earnings, occupational license, or otherwise, is immaterial.

(d) "Compensation" as applied to employees of an agency and members of the Armed Forces means "wages" as defined in 26 U.S.C. 3401(a) and regulations issued thereunder.

(e) "District of Columbia income tax" means the income tax imposed under 47 District of Columbia Code, Chapter 15, Subchapter II.

(f)(1) "Employees" for purposes of State and city income or employment tax withholding, means all employees of an agency, other than members of the Armed Forces. The term does not include retired personnel, pensioners, annuitants, or similar beneficiaries of the Federal Government, who are not performing active civilian service or persons receiving remuneration for services on a contract-fee basis.

(2) "Employees" for purposes of District of Columbia income tax withholding, means employees as defined in 47 District of Columbia Code 1551c(z).

(g) "Members of the Armed Forces" means all individuals in active duty status (as defined in 10 U.S.C. 101(22)) in regular and reserve components of the Army, Navy, Air Force, Marine Corps and Coast Guard, except members of the National Guard while participating in exercises or performing duty under 32 U.S.C. 502, and members of the Ready Reserve while participating in scheduled drills or training periods or serving on active duty for training under 10 U.S.C. 270(a).

(h) "Regular place of Federal employment" means the official duty station, or other place, where an employee actually and normally (i.e., other than in a travel or temporary duty status) performs services, irrespective of residence.

(i) "Secretary" means Secretary of the Treasury and Fiscal Assistant Secretary and his designee.

(j) "State" means a State of the United States or the District of Columbia, unless otherwise specified.

(k) "State income tax" means any form of tax for which, under a State statute, (1) collection is provided, either by imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State, or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to have such sums withheld; and (2) the duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of such State.

Subpart B—Procedures

§ 215.3 Relationship of Standard Agreement to existing agreements.

(a) Subpart C of this Part is the Standard Agreement which the Secretary will enter into with a State or city. This Standard Agreement replaces all prior agreements between the Secretary and the State or city covering the withholding of income or employment taxes from the compensation of Federal employees. The Standard Agreement is essentially the same as the prior agreements. A State or city which currently is a party to an agreement with the Secretary covering the withholding of income or employment taxes from the compensation of Federal employees does not need to apply for a new agreement under this Part. A State or city currently a party to an agreement will be presumed to have consented to be bound by the terms of the Standard Agreement (Subpart C). If a State or city, which is currently a party, does not want to be bound by the Standard Agreement, it shall notify the Fiscal Assistant Secretary, Department of the Treasury, Washington, D.C. 20220, in writing over the signature of an officer authorized to contractually bind the State or city within 90 days of the effective date of this Part. The procedures of § 215.5 shall be followed by a State or city which proposes to be bound by an agreement other than the Standard Agreement.

(b) The effective date for the replacement of existing State or city Standard Agreements by the Standard Agreement appearing as Subpart C of this Part is the effective date of this Part. For current other-than-Standard-Agreements, it is 120 days after the effective date of this Part unless an earlier effective date is specifically agreed to or a new agreement which is other than the Standard Agreement of Subpart C is entered into as provided in this Subpart.

§ 215.4 Procedures for entering into a Standard Agreement.

(a) A State or city which does not have an existing agreement and wishes to enter into a Standard Agreement shall indicate in a letter its agreement to be bound by the provisions of Subpart C. The letter shall be addressed to the Fiscal Assistant Secretary, Department of the Treasury, Washington, D.C. 20220, and be signed by an officer authorized to contractually bind the State or city. Copies of all applicable State laws or city ordinances and implementing regulations, instructions, and forms shall be enclosed. The letter shall also indicate the title and address of the official whom Federal agencies may contact to obtain forms and other information necessary to implement withholding.

(b) Within 120 days of the receipt of the letter from the State or city official, the Fiscal Assistant Secretary will, by letter, notify the State or city (1) that the Standard Agreement has been entered into as of the date of the Fiscal Assistant Secretary's letter, or (2) that an agreement cannot be entered into with the State or city and the reasons for that determination. The withholding of the State and city income or employment tax shall commence within 90 days after the effective date of the agreement.

§ 215.5 Procedures for an agreement other than a Standard Agreement.

(a) If a State or city proposes an agreement which varies from the Standard Agreement, the State or city shall follow the procedure in § 215.4(a), except that its letter shall indicate which provisions of the Standard Agreement are not acceptable and the basis therefor, and propose substitute provisions.

(b) Within 60 days of the receipt of the letter from the State or city official, the Fiscal Assistant Secretary will notify the State or city which substitute provisions may be included in the agreement. The State or city shall, by letter, notify the Fiscal Assistant Secretary if it accepts such an agreement. When accepted by the State or city, the effective date of that agreement shall be the date such acceptance letter is received by the Fiscal Assistant Secretary. The withholding of the State and city income or employment tax shall commence within 90 days after the effective date of the agreement.

Subpart C—Standard Agreement

§ 215.6 In general.

This Subpart is the text of the Standard Agreement between the Secretary and the State or city. The terms used in this agreement are defined in § 215.2 of this Part.

§ 215.7 Parties.

The parties to this agreement are the Secretary and the State or city which has entered into this agreement pursuant to 5 U.S.C. 5516, 5517, or 5520 and Executive Order No. 11968 (January 31, 1977).

§ 215.8 Compliance by agencies.

(a) In the case of an agreement with a State, the head of each agency is required to withhold State income taxes from the compensation of (1) employees of such agency who are subject to such taxes and whose regular place of Federal employment is within the State, and (2) members of the Armed Forces who are subject to such taxes and who are legal residents of the State. The foregoing is also applicable with respect to a State whose statutes permit but do not require withholding by employers, provided the employee voluntarily elects to have such tax withheld.

(b) In the case of an agreement with a city, the head of each agency is required to withhold city income or employment taxes from the compensation of employees of such agency who are subject to such taxes and whose regular place of Federal employment is within the city.

(c) In withholding taxes, the head of each agency, except as otherwise provided in this agreement, shall comply with the withholding provisions of the State or city income or employment tax statute, regulations, procedural instructions and reciprocal agreements related thereto.

§ 215.9 Withholding certificates.

Each agency may require employees or members of the Armed Forces under its jurisdiction to complete a withholding certificate in order to calculate the amount to be withheld. The agency shall use the withholding certificate which the State or city has prescribed. Where the State or city has not prescribed a certificate, the agency may use a certificate approved by the Department of the Treasury. The agency may rely on the information in the certificate. Copies of completed certificates shall be provided to the taxing authority by agencies upon request.

§ 215.10 Change of legal residence by members of the Armed Forces.

(a) In determining the legal residence of a member of the Armed Forces for tax withholding purposes, the head of any agency at all times may rely on the agency's current records which may include a certificate of legal residence. The form of the certificate of legal residence shall be approved by the Department of the Treasury. A change of legal residence of a member of the Armed Forces shall become effective for tax withholding purposes only after a member of the Armed Forces completes a certificate indicating a new legal residence and delivers it to the agency.

(b) Heads of agencies shall notify the State of prior legal residence of the member of the Armed Forces involved on a monthly basis concerning the change of the member's legal residence. The notification shall include the name, social security number, current mailing address and the new legal residence of such member of the Armed Forces. The effective date of the change in legal residence shall also be included in the notification.

§ 215.11 Agency withholding procedures.

(a) State income tax shall be withheld only on the entire compensation of Federal employees and members of the Armed Forces. Nonresident employees, who under the State income tax law are required to allocate at least three-fourths of their compensation to the State, shall be subject to withholding on their entire compensation. Nnonresident employes, who under the State income tax law are required to allocate less than three-fourths of their compensation to the State, may elect to (1) have State income tax withheld on their entire compensation, or (2) have no income tax withheld on their compensation.

(b) In calculating the amount to be withheld from an employee's or a member's compensation, each agency shall use the method prescribed by the State income tax statute or city ordinance or a method which produces approximately the tax required to be withheld (1) by the State income tax statute from the compensation of each employee or member of the Armed Forces subject to such income tax, or (2) by the city ordinance from the compensation of each employee subject to such income or employment tax.

(c) Where it is the practice of a Federal agency under Federal tax withholding procedure to make returns and payment of the tax on an estimated basis, subject to later adjustment based on audited figures, this practice may be applied with respect to the State or city income or employment tax where the agency has made appropriate arrangements with the State or city income tax authorities.

(d) Copies of Federal Form W-2, "Wage and Tax Statement", may be used for reporting withheld taxes to the State or city.

(e) Withholding shall not be required on wages earned but unpaid at the date of an employee's or member's death.

(f) Withholding of District of Columbia income tax shall not apply to pay of employees who are not residents of the District of Columbia as defined in 47 District of Columbia Code, Chapter 15, Subchapter II.

§ 215.12 Miscellaneous provisions.

Nothing in this agreement shall be deemed:

(a) To require collection by agencies of the United States of delinquent tax liabilities of Federal employees or members of the Armed Forces, or

(b) To consent to the application of any provision of law of the State or city which has the effect of (1) imposing more burdensome requirements upon the United States than it imposes on other employers, or (2) subjecting the United States or any of its officers or employees to any penalty or liability, or

(c) To consent to procedures for withholding, filing of returns, and payment of the withheld taxes to a State or city that do not conform to the usual fiscal practices of agencies, or

(d) To permit the withholding of city income or employment taxes from the pay of a Federal employee who is not a resident of the State in which the city is located unless the employee consents to the withholding, or

(e) To permit the withholding of city income or employment taxes from the pay of members of the Armed Forces of the United States, or

(f) To allow agencies to accept compensation from a State or city for services performed in withholding of State or city income or employment taxes, or

(g) To require withholding of State income tax from the compensation of members of the Armed Forces, prior to the first full pay period after June 30, 1977.

§ 215.13 Supersession, amendment and termination provisions.

(a) This agreement supersedes any prior agreement between the Secretary of the Treasury and a State or city pursuant to 5 U.S.C. 5516, 5517, or 5520.

(b) This agreement shall be subject to any amendment of 5 U.S.C. 5516, 5517, 5520 or Executive Order No. 11968, and any rules and regulations issued pursuant to them and amendments thereto.

(c) This agreement may be terminated as to a specific State or city which is a party to this agreement by providing written notice to that effect to the Secretary at least 90 days prior to the proposed termination.

It is intended that the final version of this regulation will be effective on June 10, 1977.

Date: April 26, 1977.

David Mosso,
Fiscal Assistant Secretary.

[FR Doc.77-12474 Filed 4-29-77;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

MAILING LIST SERVICES

Address Cards Arranged in Sequence of Carrier Delivery

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Under this proposed rule the Postal Service would modify its mailing list sequencing service offered to customers by correcting wrong addresses and providing new addresses if mailers meet certain specific requirements. For each correction made the charge would be ten cents. This would aid the Postal Service by reducing the volume of costly undeliverable as addressed mail. It would also aid mailers who would be able to come to one source for information to correct their mailing list.

DATE: Comments must be received on or before June 1, 1977.

ADDRESS: Written comments should be directed to the Manager, Letter Services Branch, Customer Services Department, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Gregory Whiteman (202-245-5630).

SUPPLEMENTAL INFORMATION: Under the provisions of 39 CFR 111.3, the Postal Service is proposing to modiy its mailing list sequencing service by revising 122.53 of the Postal Service Manual, chapter I of which has been incorporated by reference in the Federal Register, see 39 CFR 111.1.

At the present time, the Postal Service provides a series of list correction services for mailing lists of occupant or resident addresses. For example, the Postal Service will, pursuant to 122.513 of the Postal Service Manual, correct an occupant or resident list that is submitted on cards (one address per card) as follows:

1. Incorrect or non-existent street addresses are crossed off.
2. Business addresses are indicated by inserting a "B" opposite the number.
3. Addresses on a rural route are indicated by an "R".
4. The number of separate family units are indicated for apartment houses or other multiple dwellings.
5. Cards with no changes are marked with an "X".

In addition to the above service the Postal Service provides under 122.53 of the Manual a list sequencing service in which incorrect, non-existent, or other undeliverable addresses are withdrawn. For each existing address not included in the list, the Postal Service inserts a blank card in the proper slot, and indicates the number of missing addresses on the card where more than one address in a series is missing. List sequencing reduces the amount of undeliverable as addressed mail and enables the mailing to be produced presorted to carrier route and at times even to carrier walk sequence. However, the existing list sequencing service regulations limit the ability of the Postal Service effectively to corerct mailing lists since correct addresses or new addresses cannot be supplied. As new buildings are opened, and new homes built, and new housing developments completed, mailing lists contain many incorrect or missing addresses which the Postal Service has been unable to correct or supply. This proposed change in the regulations will remedy the matter.

The Postal Service proposes this change in the full awareness of the provisions of 39 U.S.C. 412, which prohibits the Postal Service from making available to the public by any means or for any purpose any mailing or other list of names or addresses of postal patrons or other persons. The Postal Service does not believe that this proposed regulation change would be inconsistent with 39 U.S.C. 412, since the requirements that customers must meet to receive this additional service are designed to insure that the additional street addresses provided do not constitute a list but are rather an interstitial correction of a bona-fide existing list.

Accordingly, although exempt from the notice and comment requirements of the Admininstrative Procedure Act (5 U.S.C. 553 (b), (c) regarding proposed mulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of 122.53 of the Postal Service Manual, which would permit incorrect addresses to be changed and new addresses to be added if specific requirements are met by the mailing list owner.

PART 122—ADDRESSES

In 122.5, revise .53 to read as follows:

122.5 Mailing list services.

* * * * *

.53 Address cards arranged in sequence of carrier delivery.

Arrange address cards in sequence of carrier route delivery without charge. Each card must include only one address. Mailers may submit address plates or stencils instead of cards when satisfactory arrangements can be made to handle them.

Withdraw cards with nonexistent or other undeliverable addresses. Insert a card showing the correct address for each existing address that is not included in the owner's address cards, plates, or stencils and correct cards with incorrect addresses if the owner meets the following requirements:

(a) Separate mailing lists must be submitted for each five digit ZIP Code area, and

(b) The mailing list must contain 90 percent of all addresses within the five digit ZIP Code area.

In submitting the list to be sequenced, the owner must provide a statement indicating the total number of addresses in the list.

Withdraw cards with incorrect addresses and insert a blank card for each existing address that is not included in the owner's address cards, plates, or stencils if the owner does not meet the requirements specified above. If several addresses are missing in a series, insert a single blank card for the series and indicate on the card the number of addresses which are missing.

For each correction made, the charge is 10 cents.

Postmasters must check to see that customers whose lists have been arranged in sequence ensure that bundles are prepared for each route with the individual pieces in address sequence. This above service shall not be provided to customers who do not ensure the required premailing preparation is made.

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-12481 Filed 4-29-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 703-4]

APPENDIX N—EMISSION REDUCTIONS ACHIEVABLE THROUGH INSPECTION AND MAINTENANCE OF LIGHT DUTY VEHICLES, MOTORCYCLES, AND LIGHT AND HEAVY DUTY TRUCKS

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This Appendix presents estimates of potential emissions reduction benefits which, in the judgment of the Administrator, are likely to be achievable through the application of a properly structured and managed inspection/maintenance (I/M) program. Estimates of emission reductions available through retrofit programs, formerly contained in Appendix N, have been deleted. Inspection/Maintenance program effectiveness is given as a function of the level of technology, the stringency of emission standards, the length of program operation, and the adequacy of mechanic training. Basic program requirements are outlined for both the centralized and decentralized program concept. Attachment 1 provides a discussion of the modeling techniques utilized to generate the emission reduction estimates, while Attachment 2 provides computational examples illustrating the usage of Appendix N.

FOR FURTHER INFORMATION CONTACT:

John O. Hidinger, Director, Office of Transportation and Land Use Policy (AW-445) U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0480).

ADDRESS: Submittal of Comments: Comments upon Appendix N are requested. Such comments should be directed to the individual below and postmarked no later than August 1, 1977.

Dated: April 19, 1977.

DOUGLAS M. COSTLE,
Administrator.

In Part 51, of Title 40, Code of Federal Regulations, Appendix N is revised to read as follows:

APPENDIX N—EMISSION REDUCTIONS AND ACHIEVABLE THROUGH INSPECTION AND MAINTENANCE OF LIGHT DUTY VEHICLES, MOTORCYCLES, AND LIGHT AND HEAVY DUTY TRUCKS

AUTHORITY: Section 301(a) of the Clean Air Act as amended by section 15(c)(2) of Pub. L. 91-604, 84 Stat. 1713; 81 Stat. 504 (42 U.S.C. 1857g(a)).

1. *Introduction.* This Appendix presents estimates of the potential emissions reduction benefits which, in the judgment of the Administrator, are likely to be achievable through the application of a properly structured and managed inspection/maintenance (I/M) program. Since the publication of the original Appendix N, new data obtained and experience gained from operating programs have shown the necessity for a revision to certain portions of this document. In addition, estimates of emission reductions available through retrofit programs, formerly contained in Appendix N, have been deleted. Retrofit guidance will be placed in a separate appendix consistent with a format to be followed for other strategies.

To the extent possible, estimates in this Appendix are based on empirical data. However, lack of data in several areas has necessitated extrapolation of empirical data using modeling techniques based on sound engineering judgment. A description of these modeling techniques is contained in Attachment 1. As new data become available, or as predicted extrapolations change, this Appendix will be revised and amended accordingly.

Several definitions have been modified to reflect their intended meaning. Most important, "initial failure rate" has been redefined as a "stringency factor." Hopefully, this new definition will dispel past misapprehension concerning the "initial failure rate" concept. In addition, the idle test has been slightly redefined to reflect actual idle emission testing currently being used.

The minimum requirements of an I/M program are defined. Those programs which are contemplating the use of a private garage I/M program should note the special requirements necessary to obtain the basic emission reduction credits.

Emission reductions for light duty vehicles are estimated not only for the first year of an I/M program but also for subsequent years since modeling has shown that the reduction benefits can increase with time. Additional emission reductions are estimated for those programs which include twice-a-year inspection and special mechanic training. Estimates of emission reductions resulting from I/M programs for light-duty trucks, heavy-duty trucks, and motorcycles are also given.

Certification data and recent surveillance data indicate that I/M effectiveness may be greater (especially for carbon monoxide) for catalyst equipped in-use vehicles than for pre-catalyst vehicles. By the time many I/M programs are fully implemented, catalyst-equipped vehicles will dominate the vehicle mix. Estimates are therefore given for the effectiveness of I/M on such vehicles, despite the limited data base at the present time.

Tables 1 through 5 summarize the emission reductions obtainable from I/M programs. The actual benefit obtained by any state or region implementing a well-designed program may exceed the emissions reductions listed. Such higher reductions, however, would have to be shown through an adequate source surveillance study.

2. *Definitions.* a. "Cutpoint" means the level of emissions which discriminates between those vehicles requiring emission-related maintenance and those that do not.

b. "Federal Test Procedure" (FTP)—A sequence of testing utilized by the Agency to measure vehicle exhaust emissions over a typical urban driving cycle.

c. "Heavy-duty vehicle" means for the purpose of this Appendix, a gasoline fueled motor vehicle whose GVW is greater than 8,500 pounds.

d. "Idle emissions test" or "idle test" means a test procedure for sampling exhaust emissions which requires operation of the engine in the idle mode only. At a minimum, the idle test should consist of the following procedure carried out on a fully warmed-up engine: a measurement of the exhaust emission concentrations for a period of time of at least 15 seconds, shortly after the engine was run at 2,000 to 2,500 rpm with no load for approximately 60 seconds.

e. "Inspection/maintenance" means a strategy to reduce emissions from in-use vehicles by identifying vehicles that need emissions-related maintenance and requiring that such maintenance be performed.

f. "Light-duty vehicle" means a passenger car or passenger car derivative capable of seating 12 persons or less.

g. "Light-duty truck" means, for the purpose of this Appendix, a motor vehicle designed primarily for the transportation of property, or the derivation of such a vehicle, whose GVW is 8500 pounds or less.

h. "Load emissions test" or "loaded test" means a test procedure for sampling exhaust emissions which exercises the engine under loading by use of a chassis dynamometer to stimulate actual driving conditions. As a minimum requirement, the loaded test must include running the vehicle and measuring exhaust emissions at two speeds and loads other than idle.

i. "Motorcycle" means for the purpose of this Appendix, a two-wheeled motorized vehicle designed to transport persons or property on a street or highway.

j. "Stringency factor" is a measure of the rigor of a program based on the estimated fraction of the vehicle population whose emissions would exceed cutpoints for either or both carbon monoxide and hydrocarbons were no improvements in maintenance habits or quality of maintenance to take place as a result of the program.

k. "Tampering" means, for the purpose of this Appendix, rendering inoperative, or intentional misadjustment of any motor vehicle device or element of design intended to control exhaust emissions.

l. "Technology I" means the general type of exhaust emission control technology utilized on all light-duty vehicles subject to pre-1975 Federal emission standards.

m. "Technology II" means the general type of exhaust emission control technology utilized on light-duty vehicles subject to 1975 and later model year federal exhaust emission standards.

3. *Emission reductions for light-duty vehicles.* Tables 1 through 4 list emission reductions for light-duty vehicles that can be achieved through properly structured and managed programs of inspection/maintenance and accompanying mechanic training. See Attachment 1 and 2 for a description of the derivation of these credits and for computational examples of the use of the tables.

a. *First year program credits.* The following first year credits are applicable to both idle and loaded tests.

TABLE 1.—*First year of program credits*

Stringency factor	HC (percent) Technology I	HC (percent) Technology II	CO (percent) Technology I	CO (percent) Technology II
0.10	1	1	3	8
.20	5	3	8	20
.30	7	9	13	28
.40	10	16	19	33
.50	11	24	22	37

b. *Subsequent years program credit.* The following additional (to Table 1) credits are applicable to vehicles which have undergone more than one inspection by the beginning of the calendar year of interest. These credits are not applicable to programs having inspection intervals of longer than one year. For a model year group of vehicles, the appropriate credit is selected on the basis of the specific number of inspections that the group has incurred by the beginning of the calendar year of interest. The credit is then added to the appropriate first year credit above. Credits are applicable to both technology level cases, to the idle and loaded tests, and to all stringency factor programs.

TABLE 2.—*Subsequent years program credit*

Number of inspections	Additive credit HC (percent)	Additive credit CO (percent)
2	7	8
3	14	15
4	20	19
5	25	23
6	30	27
7	33	30
8 or more	36	35

c. *Semi-annual I/M program credit.* A credit of 0.2 percent per subsequent semi-annual inspection may be added, up to 15 times, to the first year (Table 1) credits for those programs requiring semi-annual inspection. This credit is applicable at all stringency factors for both HC and CO, idle and loaded tests, and both technology levels.

d. *Mechanic training program credit.* The following additional credits may be taken for the presence of an adequate program of mechanic training.[1] Table 3 provides the basic credits for mechanic training, while Table 4 lists the appropriate credits to be added to Table 3 credits for subsequent years of program operation. The sum of Table 3 and 4 credits is then to be added to the basic credit computed from Tables 1 and 2.

TABLE 3.—*Mechanic training first year credits*

Stringency factor	Technology I HC (percent)	Technology I CO (percent)	Technology II HC (percent)	Technology II CO (percent)
0.10	1	5	3	7
.20	3	7	5	10
.30	4	9	4	10
.40	6	8	1	7
.50	7	7	1	5

TABLE 4.—*Mechanic training subsequent year credits*

Technology I

Stringency factor	Number of inspections 2 HC (percent)	Number of inspections 2 CO (percent)	Number of inspections 3 or more HC (percent)	Number of inspections 3 or more CO (percent)
0.10	3	3	15	18
.20	4	8	10	15
.30	6	5	9	9
.40	5	5	5	5
.50	3	2	3	2

Technology II

Stringency factor	Number of inspections—2 or more HC (percent)	Number of inspections—2 or more CO (percent)
0.10	10	4
.20	8	2
.30	2	1
.40	1	3
.50	1	1

The above Table 4 credits are applicable to vehicles which have undergone more than one inspection by the beginning of the calendar year of interest. For a model year group of vehicles, the appropriate credit is selected on the basis of the technology level of the vehicles, the number of inspections the vehicles have incurred by the beginning of the calendar year of interest, and the stringency factor of the I/M program. The credit is then added to the appropriate first year mechanic training credit (Table 3) and the result is added to the basic credit calculated from Tables 1 and 2. Credits are applicable to both the idle and the loaded test.

Inspection/maintenance approaches are expected to be applicable to heavy duty gasoline fueled trucks and motorcycles, as well as light duty vehicles.

a. *Emission reductions for motorcycles and light duty trucks.* The estimated emission reductions for this group of vehicles are the same as those given in Tables 1 through 4 for Technology I light duty vehicles.

b. *Emission reductions for heavy duty trucks.* Estimated emission reductions due to I/M for gasoline fueled heavy duty vehicles, using either an idle or loaded emissions test are as follows:

TABLE 5.—*Heavy duty vehicle I/M credit*

Stringency factor	HC (percent)	CO (percent)
0.20	11.4	8.3
.30	12.3	9.2
.40	15.6	10.5
.50	17.2	12.0

Analysis of data (generated by the City of New York under EPA grant) on 65 trucks indicate that I/M is a potentially viable emission reducing strategy. The estimated emission reductions given above are based on these limited data. No data on the deterioration of trucks with or without I/M are available. The assumption utilized to develop Table 5 is that the average yearly effectiveness is one-half of the initial benefit achieved as a result of a tune-up.

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[1] The "adequacy" of a mechanic training program will, for the present, be determined on a case-by-case basis. Guidelines will be issued in the future if found to be feasible.

5. *Basic program requirements.* There are two basic types of operation which may be utilized for an I/M program, namely a centralized inspection system (government or contractor operated) and a decentralized inspection system (private commercial garages). In order to obtain full emission reduction benefits for either a centralized or decentralized inspection system, certain minimum requirements are established, which if not met, will result in assessed emission reductions lower than those listed in Tables 1 through 5 of this Appendix.

a. *Program requirements*—Minimum for all programs.

i. Provisions for regular periodic inspection (at least annually) of all vehicles for which emissions reductions are claimed.

ii. Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. The basic method is to require that failing vehicles pass a retest following maintenance.

iii. Provisions for quality control. The reliability of the inspection system and equipment accuracy must be ensured. This will include routine maintenance, calibration and inspection of all I/M equipment, and routine auditing of inspection results.

b. *Minimum decentralized program requirements.* In order to receive the basic emission reduction benefits for a decentralized I/M program, the following requirements must be included in addition to provisions listed in Section 5(a).

i. Provisions for the licensing of inspection facilities which insure that the facility has obtained, prior to licensing, analytical instrumentation which has been approved for use by the appropriate governing agency. A representative of the facility must have received instructions in the proper use of the instruments and in vehicle testing methods. The facility must agree to maintain records, to collect signatures of operators whose vehicles have passed inspection, and to submit to inspection of the facility.

ii. Records required to be maintained should include the description (make, year, license number, etc.) of each vehicle inspected, and its emissions test results. Records must also be maintained on the calibration of testing equipment.

iii. Copies of these inspection records should be submitted on a periodic basis to the governing agency for auditing.

iv. The governing agency should inspect each facility at least once every 90 days to check the facilities' records, check the calibration of the testing equipment and observe that proper test procedures are followed.

v. The governing agency should have an effective program of unannounced/unscheduled inspections both as a routine measure and as a complaint investigation measure. It is also recommended that such inspections be used to check the correlation of instrument readings among inspection facilities.

c. *Motorcycle and heavy duty truck program requirements.* An acceptable I/M program for motorcycles and trucks must include the same provision specified in Section 5 for light duty vehicles. In addition, a source surveillance program, such as discussed in Section 6(c) is strongly recommended for any emission reduction estimates for motorcycles and heavy duty vehicles. The test procedures and program design for the evaluation of emission reductions should be reviewed in advance by EPA. The source surveillance program can include an assessment of emission deterioration at the option of a state. Without such an assessment, the assumption will be made that average yearly effectiveness is half of the initial benefit found.

6. *Additional Topics*—Emission reductions.

a. *Idle vs. loaded testing.* Although idle and loaded testing do not necessarily fail a mutally inclusive set of vehicles, latest available data indicate no overall difference in HC and CO emission reductions between the two tests. The available data do indicate that the loaded test can be more effective in reducing emissions than the idle test, but only if mechanics are extensively trained in the proper use of loaded test diagnostic information. For this reason, no additional credit is given for loaded mode testing. The loaded emission test does, however, have the potential to measure oxides of nitrogen from automobile emissions and can therefore be a valuable strategy in areas where there is a defined NOx problem.

b. *Tampering inspection.* Additional annual reductions in emissions can be achieved from a program of tampering inspection, in conjunction with emissions inspection. The amount of reduction credited will be a function of the sophistication and complexity of the tampering inspection and the training of the inspectors. To obtain these reductions there must be inspection and maintenance for tampering along with emission I/M. Any plans for tampering inspection should be reviewed with EPA in advance in order to estimate the potential benefits.

c. *Added benefits—source surveillance program.* It is possible that well designed and managed I/M programs will achieve greater reductions than those estimated in this Appendix. This can occur because deterioration rates and other factors may be different for specific geographic areas or because the service industry is doing a better job than estimated or because public maintenance habits improve significantly in response to the program.

To overcome the uncertainty associated with the above it is recommended that a source surveillance program be performed. The results of such a program would allow states and areas to update the emission reduction benefit for I/M as data become available. Such source surveillance studies can determine three key pieces of information: the initial reduction which vehicles can achieve in the first year of a program as a result of inspection and repair, the change in lifetime vehicle emission deterioration which can be credited to yearly inspections, and an accurate location specific emission inventory prior to I/M implementation.

An I/M program has the potential to change both the first year emission rate and the lifetime deterioration curve. Since a source surveillance program needs to be carefully designed to adequately evaluate benefits attributable to I/M, states are encouraged to review source surveillance study designs with regional EPA offices before beginning such programs. Technical guidance for program design and sizing of test samples will be available from EPA.

In the absence of a source surveillance program, states required to submit transportation control plans must use the estimates contained in this Appendix in the determination of emission reductions from inspection/maintenance programs. In addition, current and projected emission factors supplied by EPA must be used in these determinations, unless substantiating justification for other factors is provided.

At the present time, EPA is looking at the possibility of using short inspection tests to determine both percent emission reduction due to inspection and maintenance, and emission deterioration of vehicles over time. The ability to use short tests to determine percent emission reductions due to maintenance will depend upon the correlation of the short test with the Federal Test Procedure. Additional source surveillance implementation information will become available as current analyses are completed.

d. *Alternative approaches.* Maintenance-oriented programs that employ approaches other than emission testing may be capable of achieving emission reductions for in-use motor vehicles. Such approaches, including mandatory maintenance procedures and engine parameter inspection, will be acceptable only if sufficient data are provided to justify the emission reductions estimated.

e. *Program alterations.* Alternations to program design during the course of an I/M program will be evaluated on a case-by-case basis. Such alternations might include: change from an idle test, after several years of use, to a loaded test; change from annual inspection, after several years of use, to a semiannual inspection.

f. *Cutpoint variations.* For a given stringency factor (which is based on both hydrocarbons and carbon monoxide), individual cutpoints for hydrocarbons and carbon monoxide can be varied in a theoretically infinite number of ways. The reductions given in this Appendix assume that there is a particular relationship between hydrocarbon and carbon monoxide cutpoints. This relationship, though considerably more complex than mentioned here, can be generally stated as, for Technology I vehicles, two carbon monoxide failures for each hydrocarbon failure, and for Technology II vehicles, three carbon monoxide failures for each hydrocarbon failure. It is possible that an area's particular pollution problem may call for I/M cutpoints that result in substantial deviations from the HC/CO relationships implicit in this Appendix. At the State's or local area's request, EPA will review the program's cutpoint structure, and make adjustments to emissions reduction credit as necessary.

g. *High altitudes, California.* All emission reductions estimated in this section are also applicable to high altitude areas and for vehicles equipped for use in California.

h. *Oxides of nitrogen.* It has not been shown that maintenance directed at reducing HC and CO emissions has a significant impact on oxide of nitrogen (NOx) emissions. All available data show very minor increases or decreases in NOx levels. It has already been cited (Section 6(a)) that a loaded test is capable of detecting high NOx emitters. Maintenance procedures and an ensuing control strategy to reduce NOx emissions, based on I/M, are therefore conceivable. To the extent that tampering is directed toward NOx emission controls, a good antitampering program can reduce NOx emissions.

ATTACHMENT 1

DESCRIPTION OF THE SIMULATION MODEL

Introduction. Empirical data from ongoing inspection/maintenance (I/M) programs has shown that mandatory inspection and maintenance will result in significant air quality benefits. Increased future benefits are to be expected as such programs become stabilized, i.e., the vehicle population has been subject to I/M requirements during its full lifetime. Currently available data, however, is somewhat limited in its ability to estimate these future benefits quantitatively. For this reason, a mathematical model of the I/M process has been developed, in which available empirical data is utilized to make the model as realistic as possible. This approach was used to derive the estimates of benefit presented in Appendix N. Two groups of vehicles were considered, and these groups of vehicles are designated as Technology I and Technology II. Technology I vehicles include all light-duty vehicles manufactured prior to the 1975 model year that were designed to meet pre-1975 exhaust emission standards. Technology II vehicles include all post-1974 light-duty vehicles that were designed to meet the more stringent 1975 and later emission standards. Samples of vehicles of the two technology levels were input to the model, and were taken as representative of Technology I and Technology II vehicles on a nationwide basis. Please note: all computations in Attachments 1 and 2 are based upon the metric system.

I. *Description of the simulation model of the inspection/maintenance process.* The I/M process as currently conceived in the model consists of the following events:

1. Emission deterioration from existing levels.
2. Inspection lane testing of HC and CO levels using the idle test to detect high FTP emitters (NOx emissions are insignificant at idle, and therefore are not considered in the model).
3. Maintenance or repair (resulting in lower emission levels), if a vehicle fails the inspection.

Each vehicle undergoes this sequence of events throughout its useful life, which is assumed to be nine years, or approximately 160,000 kilometers.

The model compares average FTP emissions in the case where an I/M program is operational, with emissions in the case where no I/M program exists. Benefit is calculated as the percent reduction in FTP emissions from the average level in the no I/M case. FTP emission levels art used to measure benefit since the FTP driving cycle is assumed to be representative of vehicle operation in urban areas. Two types of benefit can be computed: (1) the average benefit over a vehicle's life, and (2) the benefit in a particular year of a vehicle's life. Both types of benefit are dependent upon the vehicle's level of emission control technology and the number of times the vehicle has been subjected to a mandatory inspection program. The average benefit for a population of vehicles in a given calendar year is computed from the individual technology level vehicle benefits given in Appendix N, which are of the second type. The calculation methodology is discussed in a later section of this Appendix.

Issues affecting estimated I/M benefit. Benefit due to I/M depends upon the assumptions used to implement the simulation of the I/M process; that is, the assumptions surrounding the three events identified above. Because the currently available data are limited, assumptions were made regarding some of the issues that logically affect benefit. The model reflects these assumptions, which were based on engineering judgment. The issues and assumptions are discussed below.

Issue 1. Emission levels of vehicles at first inspection.

Concept. Benefit in the first and subsequent inspection years is expected to depend on the emission levels of vehicles at their first inspection. There are two ways in which differences in the first year emission levels could produce significant differences in benefit. First, it is possible that for vehicles of a given age there will be differences in the distribution of emission levels at first inspection from one technology level to another; for example, it might be the case that for one technology level vehicles have either very low or very high emissions at first inspection, whereas for another technology level vehicles have emissions which are clumped closely together around some average value. This situation could possibly result in more benefit for the first technology level case, even if the same percentage of vehicles of each technology level were to fail an inspection, since failures in the first technology level case could result in bigger drops in emissions percentagewise. Second, within a technology level, different emission levels at the time of I/M implementation will naturally exist for different model year vehicles, and it is possible that these absolute numerical differences will result in benefit (or percentage) differences as well.

Assumptions. The first year Appendix N benefits, and indirectly the benefits for each subsequent inspection year, were determined by analyzing the emissions performance of one-year-old cars with and without I/M. Separate benefits were calculated for the Technology I and Technology II cases. Technology I first year benefits were based on emissions data on 180 1973–74 models tested in the FY '73 Emission Factor Program. Technology II first year benefits were based on emissions data on 587 1975 models tested in the FY '74 Emission Factor Program. These vehicles were taken to be representative of the nationwide mix of low altitude non-California one-year-old Technology I and Technology II vehicles, respectively, in terms of mileage and maintenance characteristics. As Appendix N benefit numbers indicate, I/M benefits differ by technology level, at least for CO.

With regard to different first year emission levels that all model year vehicles, regardless of age, obtain the same first year benefits. This assumption is based upon the premise that, for public acceptance reasons, the first year pass/fail cutpoints would differ with age or model year so that all vehicles would experience similar failure rates. Limited data indicate that under this premise, benefits (on a percentage-wise basis) are similar.

Issue 2. Emission deterioration.

Concept. Emission deterioration is the process whereby vehicle emission rates increase over time from the levels at which the vehicles were intended to emit when new. Emission deterioration includes changes in emissions due to normal wear of engine/emission control components as well as changes in emissions due to tampering or poor maintenance.

Assumptions. The deterioration rates used in the model are expressed as a percentage of low mileage average FTP values per year. These percentage rates are assumed to be equal for all vehicles of a given technology level, and are constant over time. Specifically, the rates were taken to be 18 percent per year for HC and 15 percent per year for CO for Technology I vehicles; 21 percent per year for HC and 14 percent per year for CO for technology II vehicles. These rates are based on data from EPA's FY '71 through FY '74 Emission Factor Programs and represent vehicle deterioration under typical owner maintenance practices. For a given pollutant and vehicle, the model considers the FTP rate of deterioration per year (grams/kilometer/year) to be constant over time. Thus, deterioration is modeled as a linear phenomenon. The grams/kilometer/year value is calculated as the overall deterioration rate, (in percent) multiplied by the individual vehicle's first-year emission level. Thus, each vehicle is considered to be an inherently low or high emitter with respect to each pollutant; vehicles which have low emissions when new will continue to have relatively low emissions as they accumulate mileage. Emissions of vehicles in the no I/M case are assumed to deteriorate throughout their useful life until they reach the average levels of pre-controlled cars at 161,000 kilometers (100,000 miles).

Significant percentages of catalytic converter failure may occur with increasing vehicle age and if such a situation does occur, the emission rates will increase sharply in later years; that is, a constant deterioration rate assumption will not be valid. However, the surveillance data currently available to EPA do not cover mileage ranges extensive enough to estimate the frequency and effect of such failures.

The FTP deterioration rate (grams/kilometer/year) is assumed not to be affected by the existence of an I/M program. However, if an I/M program is operational, the deterioration process is not continuous because deterioration is interrupted by annual idle test emissions inspections. If a vehicle fails the idle test, its emissions are assumed to be reduced via maintenance or repair to meet the pre-determined idle test standards. The FTP emissions are assumed to be reduced correspondingly, as determined by regression relationships. Following an I/M repair, the deterioration process continues under the assumption that a vehicle's yearly rate of deterioration (gm/km) is unaffected by the repair that occurred. The implication is that the inherent emissions characteristics of a vehicle cannot be improved via repair. If a vehicle passes the idle test, its emissions are left unchanged for the calculation of the average emission levels (gm/km) following the round of I/M. The deterioration process then continues until the next annual inspection occurs.

The idle test deterioration rate per year (percent CO or ppm HC) is also assumed to be constant over time for each vehicle. Idle test deterioration rates are determined from FTP deterioration rates using the following rationale: The effectiveness of I/M in reducing in-use vehicle emissions as measured over the FTP requires that the short test used in the inspection lane be an accurate predictor of FTP passage or failure. One way to ensure this is to define the idle deterioration rate in terms of the FTP deterioration rate. Currently in the model the assumption is made that FTP emissions can be quantitatively predicted from idle test emissions, and vice versa. The idle deterioration rate for a given vehicle is determined from the FTP deterioration rate and a regression relationship. Based on data over a limited mileage range, the relationships are assumed to be independent of milage and maintenance state.

Issue 3. Short test pass/fail cutpoints.

Concept. The purpose of an inspection/maintenance program is to reduce the emissions of in-use vehicles as measured over the FTP. A short emissions test procedure is intended to provide a practical method (i.e., quick and inexpensive) for identifying high FTP emitting vehicles. The benefit associated with an I/M program is dependent on the methodology used to determine the short test pass/fail cutpoint for each pollutant from year to year. The method of determining initial short test cutpoints has varied in practice from assigning cutpoints that are make/model specific to assigning one set of cutpoints for all light duty vehicles with similar emission control technology. The possibility of changing short test cutpoints to reflect vehicle age is also an important consideration.

Assumptions. The HC and CO cutpoints on which the Appendix N benefits are based are technology level specific. Thus, all vehicles of a given emission control technology (for example, catalyst-equipped cars) are assumed to have the same cutpoints. Cutpoints for the first year of the simulated I/M program were set by first specifying a stringency factor and then analyzing appropriate EPA emission factor data on one-year-old vehicles which were assumed to be representative of the nationwide mix of one-year-old vehicles. The analysis resulted in the determination of idle test pass/fail cutpoints for HC and O which corresponded to the specified stringency factor (ranging from 10 percent to 50 percent). For example, if a 30 percent stringency factor was specified, then HC and CO idle test cutpoints were determined so that approximately 30 percent of all vehicles would fail the idle test at the first inspection assuming that owners did not change their maintenance habits from those typically in effect prior to the implementation of I/M.

The relative stringency factors for HC and CO were determined by assuming that a car emitting at twice the HC FTP standard is equally likely to be failed as a car which is emitting at twice the CO FTP standard. This assumption is only one of an infinite number of ways that relative HC and CO stringency factors could be weighted to achieve the specified overall stringency factor. For example, since more AQCRs exceed ambient oxidant emission standards than exceed ambient CO standards, a car at twice the HC FTP emission standard could be considered equally likely to fail as a car which is at four times the CO FTP standard. The result of the weighting criterion which was applied is that at stringency levels below 30 percent, the large majority of vehicle failures can be attributed to high CO emission levels; even though significant percentages of HC failure are detected at stringency levels of 40 percent and above, HC failure is never as high as CO failure, percentagewise.

One of the model's critical assumptions with regard to cutpoint specification is that the first year cutpoints continue to be used year after year to determine which vehicles will pass or fail the idle test. One implication of the assumption of maintaining constant cutpoints over time is that vehicles can continue to be repaired to meet the same standards year after year, regardless of vehicle age or mileage. In support of this assumption, data from the 1972 and 1973 EPA In-use Compliance Program (IUCP) programs indicate that vehicles can continue to be repaired to FTP levels well below short test levels which represent 50 percent stringency levels.

If service industry repair capability is assumed to be minimal (as in the base case Appendix N credits, where failed vehicles are repaired just to meet the idle test cutpoints), another implication is that the percentage of failed vehicles increases over time to about twice the initial stringency factor if, as the model assumes, significant voluntary owner maintenance does not occur. Data from I/M programs in New Jersey and Chicago indicate that the failure rates of a given model year of vehicles do not increase significantly as vehicles age, even though the same cutpoint is applied. Thus, either considerable voluntary maintenance is occurring or mechanics are repairing vehicles to levels significantly better than the minimum required repair levels.

Issue 4. Service industry repair capability.

Concept. Air quality benefit derived from an I/M program is dependent on the ability of the service industry to perform the repair work necessary to lower emissions. Depending on the level of service industry training, idle emissions could be reduced just to the cutpoints, or well below the cutpoints, potentially resulting in different benefits to air quality.

Assumptions. The base case benefits given in Table 1 of Appendix N assume that the service industry is capable of repairing all failed vehicles exactly to the idle test cutpoints. Then the equivalent FTP levels are computed so that the average urban benefits can be calculated. The model assumes that a vehicle which is failed incorrectly on the idle test does not have its FTP emissions either raised or lowered by the repair process. The model also assumes that a vehicle which fails for one pollutant only will have the other pollutant emissions lowered to the FTP equivalent idle standard in cases where errors of emission occurred.

Additional benefit is predicted if mechanic training is in effect. The model assumes that mechanic training would result in the reduction of emissions of failed vehicles to the FTP standards. As in the base case, the model assumes that if a vehicle fails for one pollutant only, the other pollutant will also be reduced to the FTP standard if an error of emission occurred. The first year credits indicate a dependency on stringency factor. For catalyst vehicles, the tendency is for mechanic training to have the largest effect on programs with stringency factors of 20 and 30 percent. This is reasonable because the effect of mechanic training is jointly dependent on the percent of cars failed and the degree of improvement in the FTP levels of repaired vehicles resulting from the mechanic training program: If only 10 percent of all cars are failed initially, then only 10 percent of all cars are repaired so that even an apparently significant increased reduction due to mechanic training will be somewhat dampened by the fact that a good percentage of the remaining cars are undoubtedly high FTP emitters which simply were not caught. If, on the other hand, 50 percent are failed and the FTP standards in gm/km are approximately equal to the FTP levels corresponding to the more stringent idle test cutpoints additional benefit due to mechanic training would be insignificant. For precatalyst CO, the tendency described above, although less apparent, still seems to be present. However, precatalyst HC exhibits a tendency for mechanic training to have an increasing effect with increasing stringency factor. The tendency is explained by the fact that for the data which were input to the computer program, the HC FTP standards in gm/km was significantly lower than the FTP level corresponding to the idle test HC cutpoint, even at stringencies of 40 to 50 percent. As a result, an increased percentage of failed vehicles continued to produce increased benefit due to mechanic training.

The model assumes that owner tampering following the sequence of events: failure of the idle test, vehicle repair, and subsequent passage of the idle test, does not occur. Since motorists frequently attribute driveability problems to properly-functioning emission control devices, this assumption may be somewhat unrealistic unless mechanics become more knowledgeable about the tradeoffs between performance and emission rates. However, a good estimate of the frequency and effect of owner tampering (either with or without IM) is not available at the present time. Moreover, the benefit credits given in Appendix N require the existence of an effective anti-tampering program.

Issue 5. Frequency of inspection.

Concept. Since emission deterioration is modeled to occur continuously over time, the frequency of inspection determines the extent of vehicle deterioration between inspections. The more frequent the inspection, the less the vehicles deteriorate and thus the greater the I/M benefit.

Assumptions. For the base case benefits given in Appendix N, inspections are modeled to take place annually. Additional benefits result from semi-annual inspections. The difference in benefits from the annual to the semi-annual case is presented in section 3(c) of Appendix N.

Issue 6. Short test procedure used in the inspection lane.

Concept. Since the intent of an I/M program is to reduce the emissions of in-use vehicles as measured over the FTP, one would ideally be able to design a short emissions test procedure whose results could be used to accurately predict FTP emission levels. From a practical standpoint, the short test procedure must be quick, inexpensive, and applicable to vehicles in a warmed-up condition.

Assumptions. Benefits presented in Appendix N are based on the assumption that the idle test is used in the inspection lane. Limited analysis using the simulation model indicates that benefits using the idle test and a loaded test are comparable since the two tests are equally able to identify high FTP emitters.

ATTACHMENT 2

METHODOLOGY FOR APPLYING APPENDIX N BENEFIT NUMBERS

Tables 1 and 2 of Appendix N provide the I/M benefit numbers necessary to calculate the estimated calendar year percent reduction in HC and CO emissions from emission levels expected in the absence of I/M. To determine the percent reduction in HC and CO emissions for a given calender year, the Appendix N numbers must be applied to the scenario in question. The scenario is specified in determining the following for the calendar year i of interest;

1. The calendar year, y, in which an I/M program was implemented.

2. The number or percentage of vehicles of each model year ($i-12$ through i) contributing to the total vehicle population (vehicles of model years earlier than $i-12$ should be considered as model year $i-12$).

3. Average vehicle kilometers traveled by each model year group of vehicles.

4. HC and CO emission factors (grams/kilometer) for each model year group of vehicles, assuming I/M has never been in effect.

The calculation of emission reduction in kilograms for a given pollutant (HC or CO) in calender year i is performed as follows:

$$D_i = \sum_{t=i-12}^{i} b_{ti} c_{ti} m_{ti} n_{ti},$$

where

b_{ti} = percent reduction in emissions for vehicles of model year t in calendar year i,[2]

e_{ti} = emission factor (grams/kilometer) for vehicles of model year t in calendar year i, assuming I/M has never been in effect.

m_{ti} = average kilometers traveled by vehicles of model year t in calendar year i,

n_{ti} = number of vehicles of model year t in calendar year i,

The calculation of benefits in percent, B_i, in calendar year i requires one further step:

$$B_i = 100\, D_i \Big/ \left(\sum_{t=i-12}^{i} e_{ti} m_{ti} n_{ti} \right),$$

where the definitions of m, n, and e are as above.

If only the percent reduction is of interest, rather than the kilograms, the following alternative calculation of B_i can be used:

$$B_i = 100 \frac{\sum_{t=i-12}^{i} b_{ti} e_{ti} m_{ti} p_{ti}}{\sum_{t=i-12}^{i} c_{ti} m_{ti} p_{ti}},$$

where b, e, and m, are defined as above, and p is the fraction of vehicles on the road in calendar year i which are of model year t.

The calculation of the scenario's reduced emission factor (grams/kilometer) in calendar year i as a result of I/M, is performed as follows:

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[2] The benefit numbers in Tables 1 through 4 of Appendix N (which represent both the base case of I/M and the case where mechanic training and/or a semi-annual program is in effect), can be used to determine b_{ti} by identifying the technology level represented by vehicles of model year t and the number of inspections which vehicles of model year t have undergone by the beginning of calendar year i. The number of inspections can be calculated formally as the minimum of $(i-y)$ and $(i-t)$ for an annual I/M program, where i is the calendar year of interest, y is the year in which I/M was implemented, and t is the model year. It is assumed that the maximum number of annual inspections for vehicles of all model years will be eight. For purposes of calculating benefit, model year vehicles which have undergone more than eight inspections should be treated as if only eight have been undergone.

$$(BF)_i=\frac{(100-B_i)\cdot}{100}\cdot\left(\sum_{t=i-12}^{i} e_{it}m_{it}n_{it}\right)\Bigg/\left(\sum_{t=i-12}^{i} m_{it}n_{it}\right),$$

where B_i, e_{it}, m_{it}, and n_{it} are as defined above. (Replacement of n_{it} with p_{it} will yield the same numerical results).

Appendix N can also be used to compute the average percentage benefit of I/M for a given vehicle over its useful life, which is assumed to be nine years or approximately 160,000 kilometers and represents eight annual I/M inspections. If the vehicle is of model year t and I/M began in calendar year y, this percent reduction in emissions for a specific pollutant is computed as follows:

$$U_t=100\cdot\left(\sum_{k=t}^{t+8} b_{k,t}e_{k,t}m_{k,t}\right)\Bigg/\left(\sum_{k=t}^{t+8} e_{k,t}m_{k,t}\right),$$

where

k=calendar years covering the useful life of a vehicle of model year t; $k=t, t+1, * * *, t+8$.

$b_{k,t}$=percent reduction in emissions for vehicles of model year t in calendar year k,[2]

$e_{k,t}$=emission factor (grams/kilometer) for vehicles of model year t in calendar year k, assuming I/M has never been in effect.

$m_{k,t}$=average kilometers traveled by vehicles of model year t in calendar year k.

Nationwide estimates of the number of vehicles of each model year in the calendar year of interest, and average kilometers traveled by each model year vehicle for the calendar year of interest can be obtained by referring Table 1 which provides nationwide estimates of number of vehicles by vehicle age, and average kilometers traveled by vehicle age. Nationwide estimates of emission factors by calendar year are available in AP-42. Tables 2 and 3 provide, for illustrative purposes only, sample emission factors for calendar years 1977-1980 in format to be utilized in the upcoming revision of AP-42, Supplement 5.

Examples of the application of the methodology for calculating benefit.

Specification of scenario for problem examples 1 and 2. The nationwide mix of vehicles by age and average VKTs, as given in AP-42, applies. An I/M program with a 40 percent stringency factor was implemented in 1973, and vehicles one-year-old or older were tested by the end of calendar year 1973.

Problem 1. Determine the present reduction in emissions for HC and CO in CY 1977, assuming that the I/M inspections are annual, and that no mechanic training program is in effect.

Solution. The percent reduction, B_{77}, can be calculated from the formula:

$$B_{77}=\frac{\sum\limits_{t=77-12}^{77} b_{77,t}e_{77,t}m_{77,t}p_{77,t}}{\sum\limits_{t=77-12}^{77} e_{77,t}m_{77,t}p_{77,t}}\times 100,$$

where

$b_{77,t}$=percent reduction in emissions for vehicles of model year t in calendar year 1977 (obtained from Appendix N),

$e_{77,t}$=emission factor (gm/km) for vehicles of model year t in calendar year 1977, assuming I/M has never been in effect (obtained from AP-42),

$m_{77,t}$=average kilometers traveled by vehicles of model year t in calendar year 1977 (obtained from AP-42)

$p_{77,t}$=fraction of total vehicles on the the road in calendar year 1977 which are of model year t (obtained from AP-42).

Note that the denominator of B_{77} is the usual AP-42 type calculation of emission factors.

The following tables detail the calculation of both the numerator and denominator of B_{77} for HC and CO:

t	$b_{77,t}$ (percent)	$e_{77,t}$	$m_{77,t}$	$p_{77,t}$	Numerator product	Denominator product
1977	0	0.9	25.6	0.081	0	1.86
1976	16	1.1	24.2	.110	.47	2.93
1975	23	1.2	22.5	.107	.66	2.89
1974	24	2.9	21.1	.106	1.56	6.48
1973	30	3.4	19.6	.102	2.04	6.80
HC 1972	30	3.7	18.2	.096	1.94	6.46
1971	30	4.1	16.6	.088	1.80	5.99
1970	30	4.5	15.1	.077	1.57	5.23
1969	30	4.9	13.7	.064	1.29	4.30
1968	30	5.3	12.2	.049	.95	3.17
Pre-1968	30	6.1	10.8	.120	2.37	7.96
					14.65	54.07

HC: $B_{77}=(14.7/54.1)\times 1.00=.27$.

t	$b_{77,t}$ (percent)	$e_{77,t}$	$m_{77,t}$	$p_{77,t}$	Numerator product	Denominator product
1977	0	14.7	25.6	0.081	0	30.5
1976	33	16.6	24.2	.110	14.6	44.2
1975	41	18.6	22.5	.107	18.4	44.8
1974	34	35.3	21.1	.106	26.8	78.9
1973	38	39.5	19.6	.102	30.0	79.0
CO 1972	38	43.7	18.2	.096	29.0	76.3
1971	38	47.9	16.6	.088	26.6	70.0
1970	38	52.1	15.1	.077	23.0	60.6
1969	38	56.3	13.7	.064	18.8	49.4
1968	38	60.5	12.2	.049	13.7	36.2
Pre-1968	38	77.5	10.8	.120	38.2	100.4
					239.1	670.3

CO: $B_{77}=(239.1/670.3)\times 1.00=.36$.

Problem 2. Determine the percent reduction in emissions, B_{77}, for HC and CO in CY 1977, assuming that the inspections are annual and that an adequate mechanic training program is in effect.

Solution. The method used for Problem 1 applies. Only the $b_{77,t}$ numbers will differ to reflect the presence of an adequate program of mechanic training. The following tables detail the calculation of both numerator and denominator of B_{77} for HC and CO:

t	$b_{77,t}$ (percent)	$e_{77,t}$	$m_{77,t}$	$p_{77,t}$	Numerator product	Denominator product
1977	0	0.9	25.6	0.081	0	1.87
1976	17	1.1	24.2	.110	.50	2.93
1975	25	1.2	22.5	.107	.72	2.89
1974	35	2.9	21.1	.106	2.27	6.49
1973	41	3.4	19.6	.102	2.79	6.80
HC 1972	41	3.7	18.2	.096	2.65	6.46
1971	41	4.1	16.6	.088	2.46	5.99
1970	41	4.5	15.1	.077	2.15	5.23
1969	41	4.9	13.7	.064	1.76	4.39
1968	41	5.3	12.2	.049	1.30	3.17
Pre-1968	41	6.1	10.8	.120	3.24	7.91
					19.84	54.04

HC: $B_{77}=(19.8/54.0)\times 1.00=.37$.

t	$b_{77,t}$ (percent)	$e_{77,t}$	$m_{77,t}$	$p_{77,t}$	Numerator product	Denominator product
1977	0	14.7	25.6	0.081	0	30.5
1976	40	16.6	24.2	.110	17.7	44.2
1975	51	18.6	22.5	.107	22.8	44.8
1974	47	35.3	21.1	.106	37.1	78.9
1973	51	39.5	19.6	.102	40.3	79
CO 1972	51	43.7	18.2	.096	38.9	76.3
1971	51	47.9	16.6	.088	35.7	70
1970	51	52.1	15.1	.077	30.9	60.6
1969	51	56.3	13.7	.064	25.2	49.4
1968	51	60.5	12.2	.049	18.5	36.2
Pre-1968	51	77.5	10.8	.120	51.2	100.4
					318.3	670.3

CO: $B_{77}=(318.3/670.3)\times 1.00=.48$.

Specification of scenario for problem example 3. The nationwide mix of vehicles by age and average VKT, as given in AP-42, applies. An I/M program with a 30% stringency factor was implemented in calendar year 1980, and vehicles one year old or older were tested by the end of calendar year 1980. The program is annual and no mechanic training program is in effect. Since the emissions characteristics of 1978 and later model year cars are unknown, it will be assumed that the initial year emissions from these vehicles will be the same as that determined for 1975 model year vehicles by the Agency's Emission Factor Program; namely, .87 gm./km. HC and 14.7 gm./km. CO. Also, it will be assumed that 1978 and later model year vehicles deteriorate at the same rate as 1975-77 models; namely, .17 gm/km./yr. HC and 1.95 gm./km./yr. CO.

Problem 3. Determine the percent reduction in emissions, B_{90}, for HC and CO in calendar year 1990, and the resulting reduced emission factors for HC and CO for calendar year 1990.

Solution. To calculate B_{90}, the method used in the solutions to Problems 1 and 2 applies. The following tables detail the numerical calculation of both numerator and denominator of B_{90} for HC and CO.

t	$b_{90,t}$ (percent)	$e_{90,t}$	$m_{90,t}$	$p_{90,t}$	Numerator product	Denominator product
1990	0	0.9	25.6	0.081	0	1.87
1989	9	1.1	24.2	.110	.26	2.93
1988	16	1.2	22.5	.107	.46	2.89
1987	23	1.4	21.1	.106	.72	3.13
1986	29	1.6	19.6	.102	.93	3.20
1985	34	1.7	18.2	.096	1.01	2.97
HC 1984	39	1.9	16.6	.088	1.08	2.78
1983	42	2.0	15.1	.077	.98	2.32
1982	45	2.2	13.7	.064	.86	1.93
1981	45	2.4	12.2	.049	.65	1.44
1980	45	2.4	10.8	.033	.38	.86
Pre-1980	45	2.4	10.8	.087	1.01	2.26
					8.34	28.58

HC: $B_{90}=(8.3/28.6)\times 1.00=.30$.

t	$b_{90,t}$ (percent)	$e_{90,t}$	$m_{90,t}$	$p_{90,t}$	Numerator product	Denominator product
1990	0	14.7	25.6	0.081	0	30.5
1989	28	16.6	24.2	.110	12.4	44.2
1988	36	18.6	22.5	.107	16.1	44.8
1987	43	20.6	21.1	.106	19.8	46.1
1986	47	22.5	19.6	.102	21.1	45.0
1985	51	24.5	18.2	.096	21.8	42.8
CO 1984	55	26.4	16.6	.088	21.2	38.6
1983	58	28.4	15.1	.077	19.2	33.0
1982	63	30.3	13.7	.064	16.7	26.6
1981	63	32.3	12.2	.049	12.2	19.3
1980	63	32.3	10.8	.033	7.3	11.5
Pre-1980	63	32.3	10.8	.087	19.1	30.3
					186.9	412.7

CO: $B_{90}=(186.9/412.7)\times 1.00=.45$.

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[2] The benefit numbers in Tables 1 through 4 of Appendix N (which represent both the base case of I/M and the case where mechanic training and/or a semi-annual program is in effect), can be used to determine $b_{k,t}$, by identifying the technology level represented by vehicles of model year t and the number of inspections which vehicles of model year t have undergone by the beginning of calendar year k. The number of inspections (for calendar years after calendar year y) can be calculated formally as the minimum of $(k-y)$ and $(k-t)$ for an annual I/M program, where y is the year in which I/M was implemented, t is the model year, and k is the calendar year. Note that $b_{k,t}=0$ for k less than or equal to y.

To calculate the reduced emission factors for HC and CO, the following formula can be used:

$$(EF)_{90}=\frac{100-B_{90}}{100}\times\frac{\sum_{t=90-12}^{90} e_{90,t}m_{90,t}p_{90,t}}{\sum_{t=90-12}^{90} m_{90,t}p_{90,t}}$$

The following tables detail the calculation of the numerator and denominator:

t	$e_{90,t}$	$m_{90,t}$	$p_{90,t}$	Numerator product	Denominator product
1990	0.9	25.6	0.081	2.07	1.87
1989	1.1	24.2	.110	2.93	2.66
1988	1.2	22.5	.107	2.89	2.41
1987	1.4	21.1	.106	3.13	2.24
1986	1.6	19.6	.102	3.20	2.00
1985	1.7	18.2	.096	2.97	1.75
HC 1984	1.9	16.6	.088	2.78	1.46
1983	2.0	15.1	.077	2.32	1.16
1982	2.2	13.7	.064	1.93	.88
1981	2.4	12.2	.049	1.43	.60
1980	2.4	10.8	.033	.86	.36
Pre-1980	2.4	10.8	.087	2.25	.94
				28.76	18.33

HC: $(EF)_{90}=.71\times\frac{28.8}{18.3}=1.12$ g/km.

t	$e_{90,t}$	$m_{90,t}$	$p_{90,t}$	Numerator product	Denominator product
1990	14.7	25.6	0.081	30.5	2.07
1989	16.6	24.2	.110	44.2	2.66
1988	18.6	22.5	.107	44.8	2.41
1987	20.6	21.1	.106	46.1	2.24
1986	22.5	19.6	.102	45.0	2.00
1985	24.5	18.2	.096	42.8	1.46
CO 1984	26.4	16.6	.088	38.6	1.46
1983	28.4	15.1	.077	33.0	1.16
1982	30.3	13.7	.064	26.6	.88
1981	32.3	12.2	.049	19.3	.60
1980	32.3	10.8	.033	11.5	.36
Pre-1980	32.3	10.8	.087	30.3	.94
				412.7	18.24

CO: $(EF)_{90}=.55\times\frac{412.7}{18.2}=12.5$ g/km.

TABLE 1.—*Estimated fraction of vehicles in use nationwide and average annual kilometers driven nationwide, by vehicle age*

Vehicle age, in years	Fraction of vehicles	Average annual kilometers driven, in thousands
1	0.081	25.6
2	.110	24.2
3	.107	22.5
4	.106	21.1
5	.102	19.6
6	.096	18.2
7	.088	16.6
8	.077	15.1
9	.064	13.7
10	.049	12.2
11	.033	10.8
12+	.087	10.8

Source: AP-42.

TABLE 2.—*Emission factors for light-duty, gasoline-powered vehicles (automobiles) (low altitude, non-California)*

Model year	Carbon monoxide, grams/kilometer; calendar year—			
	1977	1978	1979	1980
Pre-1968	77.5	77.5	77.5	77.5
1968	60.5	60.5	60.5	60.5
1969	56.3	60.5	60.5	60.5
1970	52.1	56.5	60.5	60.5
1971	47.9	52.1	56.5	56.5
1972	43.7	47.9	52.1	56.5
1973	39.5	43.7	47.9	52.1
1974	35.3	39.5	43.7	47.9
1975	18.6	20.6	22.5	24.5
1976	16.6	18.6	20.6	22.5
1977	14.7	16.6	18.6	20.6

TABLE 3.—*Emission factors for light-duty, gasoline-powered vehicles (automobiles) (low altitude, non-California)*

Model year	Hydrocarbons, grams per kilometer, calendar year			
	1977	1978	1979	1980
Pre-1968	6.1	6.1	6.1	6.1
1968	5.3	5.3	5.3	5.3
1969	4.9	5.3	5.3	5.3
1970	4.5	4.9	5.3	5.3
1971	4.1	4.5	4.9	5.3
1972	3.7	4.1	4.5	4.9
1973	3.4	3.7	4.1	4.5
1974	2.9	3.4	3.7	4.1
1975	1.2	1.4	1.6	1.8
1976	1.1	1.2	1.4	1.6
1977	.9	1.1	1.2	1.4

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FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21205; RM-2781]

TV BROADCAST STATION IN LIHUE, HAWAII

Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule making.

SUMMARY: Notice of Proposed Rule Making is issued in response to petition for educational television channel in Lihue (Kauai) Hawaii.

DATES: Comments must be received on or before May 31, 1977, and reply comments must be received on or before June 21, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Stanley Schmulewitz, Policy and Rules Division, Broadcast Bureau (202-632-9660).

SUPPLEMENTARY INFORMATION:

Adopted: April 15, 1977.

Released: April 22, 1977.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Lihue (Kauai), Hawaii).

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration a petition for rule making filed by the Hawaii Public Broadcasting Authority ("Authority"). The petition seeks amendment of Section 73.606(b) of the Commission's Rules, the Television Table of Assignments, by assigning Channel 67 to Lihue (Kauai), Hawaii and reserving it for noncommercial educational use.

2. We are told that the Authority is an agency created by an Act of the state legislature of Hawaii for the purpose of making educational television available to the citizens of Hawaii on a coordinated state-wide basis. In pursuance of its statutory mandate, the Authority operates noncommercial educational Station KHET, Channel 11, Honolulu, and noncommercial educational Station KMEB, Channel 10, Wailuku, which operates as a satellite of Station KHET. In addition, the Authority is operating or plans to operate a series of translator facilities which it believes to be the most efficient, cost-effective method of spreading public television to the less populated areas of the Hawaiian Islands.

3. The objective here is to be able to serve the area of Lihue, Kauai Island, with a one kilowatt translator on Channel 67.[1] This channel is requested although Channels 21 and 27 are already allocated to the community and reserved for educational use. The reason given by the Authority for the request is that virtually all receiving antennas on the Island of Kauai are designed for Channels 55 and above. This appears to be borne out by existing translator licenses on Channels 70, 74, 76 and 78 in Lihue.

4. Lihue (pop. 3,124) is located on the Island of Kauai (pop. 27,761), the westernmost of the principal Hawaiian Islands and is approximately 160 kilometers (100 miles) northwest of Honolulu. The proposed assignment meets all spacing requirements and would allow improved educational television service on the Island of Kauai. Other channels

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[1] Pursuant to paragraph 4 of the *Report and Order* in Docket No. 18861, 36 FR 19588, 23 R.R. 2d 1504 (1971), high-powered UHF translators such as this may be operated only on unoccupied channels which are listed in the Television Table of Assignments. See also §§ 74.702(g) and 74.735(e) of the rules.

would remain available for assignment to communities in the Hawaiian Islands sustaining preclusion. For this reason it is not necessary to delete Channels 21 and 27 from Lihue.

5. The Commission is persuaded that a rule making proceeding should be instituted to request comments on the Authority's proposal. Therefore, we propose to consider the following revision in the Television Table of Assignments (§ 73.606(b) of the rules) as it relates to Lihue, as follows:

City	Channel no.	
	Present	Proposed
Lihue, Hawaii.	3+, *8−, 10+, 12−, 15−, *21−, *27−	3+, *8−, 10+, 12−, 15−, *21−, *27−, *67

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

7. Interested parties may file comments on or before May 31, 1977, and reply comments on or before June 21, 1977.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the television table of assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in intial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-12471 Filed 4-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSB-1, Notice 2]

WALKWAYS ON RAILROAD BRIDGES, TRESTLES, AND SIMILAR STRUCTURES

Termination of Rulemaking Proceeding

AGENCY: Federal Railroad Administration, DOT.

ACTION: Termination of rulemaking proceeding.

SUMMARY: On November 15, 1976, the Federal Railroad Administration (FRA) published an advance notice of proposed rulemaking (ANPRM, 41 FR 50302) in response to two petitions for rulemaking filed by the Railway Labor Executives Association (RLEA). The ANPRM stated that FRA was studying the need for a Federal regulation requiring the construction of walkways on railroad bridges, trestles, and similar structures. Interested persons were requested to comment as to the necessity for, cost of, and benefit to be derived from a Federal regulation concerning this subject After additional study and analysis of the comments submitted in response to the ANPRM, the FRA has decided to terminate this rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: William R. Paxton (202—426-0912), Principal Attorney: Anne-Marie Hyland. (202—426-8836).

SUPPLEMENTARY INFORMATION:

BACKGROUND INFORMATION

The ANPRM published by the FRA restated the assertion of the RLEA that the safety of railroad operating employees is placed in serious jeopardy when trains are forced to stop on railroad bridges, trestles, and similar structures without walkways to provide access so that they can locate equipment problems promptly and take appropriate corrective action. Walkways on such structures would also provide trackmen and signalment with a place to stand clear of trains and switching movements.

A review of accident reports filed with FRA during the past three years revealed that a total of eight railroad employees were killed as a result of falls from bridges or being struck by moving equipment while on bridges. Although some States do have statutes or regulations concerning walkways, many do not, and there is great variety among those State laws that do exist. This being the case, the FRA believed that addiitonal information and opportunity for public comment was required before a decision could be made as to the desirability of issuing a Federal regulation requiring walkways on railroad bridges, trestles, and similar structures. Comments as to the necessity for, the cost of, and the benefits to be derived from any such regulation were submitted by two Federal agencies, five State agencies, one railroad association, and 15 individual railroads. No additional information or comments were submitted by the petitioner in support of the statements included in its petition or in response to the specific questions posed in the ANPRM.

ISSUES CONSIDERED

1. What is the necessity for a Federal regulation requiring walkways on railroad bridges, trestles and similar structures?

Several commenters expressed the opinion that a rule requiring walkways on all railroad bridges, trestles and similar structure would not contribute to the safety of railroad employes. They contended that experience has shown that the presence or absence of walkways has little influence on the injury rate for employees.

Several reasons were given in support of this opinion. Railroad industry commenters believed that the absence of any significant statistical correlation between the lack of walkways and injuries to employees could be explained by the fact that carriers have identified those structures that pose the greatest hazards and have voluntarily installed walkways in order to reduce those hazards. Two State agencies supported that view. In fact, one State agency cited a study carried out jointly by State personnel, railroad labor and railroad management which failed to identify any Statewide hazard due to the lack of walkways on bridges. Anothers commenter cited common operating practices that are designed to minimize the risk of employee injuries. For example, when track forces are working, a train is permitted to leave the terminal only when the track forces are notified and the train crew is made aware of the location of the track work.

Other commenters urged FRA to review accident statistics to determine whether the lack of walkways on railroad bridges, trestles or similar structures represents a substantial danger of employee injury when compared with other employee injury causes. FRA has reviewed accident data for the 13-year period from 1962 through 1974. A comparison of three cause codes relating to falls from or through bridges or trestles with a single cause code relating to "falling on stairways, ramps, station platforms, etc." revealed almost five times as many injuries resulting from the later category as resulted from all three categories related to bridges and trestles.

2. Would the cost of providing walkways on bridges, trestles and similar structures outweigh the benefits to be derived?

Many of the commenters emphasized the potentially high cost of compliance should a rule requiring walkways on all bridges, trestles and similar structures be issued. Data submitted by one commenter indicated that there are approximately 2,100 miles of bridges, trestles and similar structures that do not presently have walkways. This commenter provided an estimated cost range for the construction of walkways that varied from a low of $45 per linear foot of walkway when installed concurrently with deck renewal or new construction, to a high of $100 per linear foot for installations on existing structures. The FRA agrees with this commenter that $65 per linear foot of walkway would be a reasonable average estimate for determining the overall potential cost to the industry. Given this estimate, a program requiring the construction of walkways along one side of the 2,100 miles of structures not presently so equipped would cost in excess of $700 million. Even if a more restricted approach were taken, requiring the construction of walkways at the time of deck renewal or new construction only, the potential cost would be approximately $500 million.

Nine commenters, including two State agencies, expressed the concern that a requirement to provide walkways on all such structures would have a negative impact on overall railroad safety because it would lead to a diversion of railroad resources from other maintenance or improvement programs that would have a more direct and significant impact on safety. Several commenters suggested that the shear magnitude of the cost of such a program would lead to the need for Federal financial assistance to prevent the cost of compliance from resulting in line abandonments and railroad insolvencies.

Another major concern of several commenters was that any safety benefit to the employees who would use the walkways would be more than offset by the increased potential danger to trespassers. Death and injury to trespassers on railroad property is already a problem, and these commenters believed that additional walkways, especially in remote areas, would encourage the use of railroad bridges or other structures by snowmobilers, motorcyclists, fishermen, hunters and hikers. A similar trespasser problem exists in urban areas where there is often easy access to railroad bridges. FRA's accident data support this concern about the danger to trespassers on these structures. During the period from 1962 through 1974 fatalities resulting from being struck by a train on a railroad bridge were 76 times greater for trespassers than for railroad employees; injuries in that same category were 51 times greater for trespassers than for railroad employees.

Problems, other than personal injuries, also result from the presence of trespassers on railroad property. In recent years the incidence of fires and vandalism on railroad property in rural areas has increased, and in cities bridges often provide a vantage point from which vandals can drop missiles onto passing trains. Commenters believed that the presence of walkways on all bridges would improve access for trespassers and further increase the already serious problems of vandalism. Because of this, some railroads recommended against the installation of walkways except where absolutely necessary for the safety of operating personnel. One State agency supported this view.

3. Are Federal regulations concerning walkways appropriate?

Seven commenters expressed the opinion that a uniform Federal standard for walkways that would be applicable nationwide is not appropriate. Such a standard, they contended, could not deal effectively with the wide variety of conditions that exists on railroads throughout the country. They cited the differences in topography and weather, traffic frequency, operating conditions and the design and historical or architectural merit of the structures. Because of this variety, the walkway question should be addressed on a case-by-case basis rather than by issuance of a single uniform rule.

Secondly, commenter contended that, where a safety problem does exist because of topography or operating conditions in a particular area or with respect to particular structures, the problem is a local one which should be addressed by State regulatory agencies. Several commenters believed that, where such regulatory action has been necessary in the past, State activity has been effective in responding to the safety problem on a case-by-case basis. The issuance of a Federal standard for walkways might be counterproductive since it would generally preempt the States from carrying out their responsibilities under existing State laws except where an essentially local safety hazard could be identified.

CONCLUSIONS AND ACTION

In compliance with the President's policy of economic impact evaluation of Federal agency actions (E.O. 11821, as amended by E.O. 11949) and the Secretary of Transportation's policy to ensure that regulations will be effective in accomplishing their intended purposes and will not impose unnecessary burdens on the private sector, consumers, or on Federal, State or local governments (41 FR 16200), the FRA has determined that the issuance of a Federal rule requiring walkways on railroad bridges, trestles, and similar structures cannot be justified at the present time. First, any such rule would impose significant added burdens in terms of the large dollar cost to the railroad industry for construction of the walkways, the added hazard to persons and property and additional liability exposure for the railroads because of increased trespassing, and the possible decrease in overall railroad safety because of the diversion of resources from other maintenance and improvement projects. Secondly, neither the commenters nor the FRA has been able to demonstrate that such a rule would result in a definite or measurable improvement to railroad employee safety. Finally, if an employee safety problem does exist because of the lack of walkways in a particular area or on a particular structure, regulation by a State agency that is in a better position to assess the local need is the more appropriate response. Therefore, the petitions for rulemaking are denied, and this proceeding is terminated.

(This notice is issued under section 202 of the Federal Railroad Safety Act of 1970, as amended, 45 U.S.C. 431; 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n); and § 211.11(c) of the FRA Rules of Practice, 49 CFR 211.11 (c) (41 FR 54181, Dec. 13, 1976).)

Issued in Washington, D.C. on April 26, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77-12455 Filed 4-29-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A472]

MICHIGAN

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Michigan Counties as a result of hail June 16 and June 28, 1976, flood June 16, 1976, and drought July 1 through September 30, 1976, in Clinton County; and drought June 20 through September 15, 1976, in Mecosta County.

Therefore, the Secretary has designated this areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor William G. Milliken that such designation be made.

Applications for emergency loans must be received by this Department no later than June 13, 1977, for physical losses and January 13, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 26th day of April, 1977.

Denton E. Sprague,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-12456 Filed 4-29-77;8:45 am]

[Designation No. A470]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of excessive rainfall April 1 to November 1 and hail June 14, 1976, in Cayuga County; and excessive raifall May 1 through October 31, 1976, in Fulton County; April 1 through October 1, 1976, in Madison County; April 1 through October 30, 1976, in Montgomery County; and April 1 through September 30, 1976, in Schoharie County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for emergency loans must be received by this Department no later than June 13, 1977, for physical losses and January 13, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 26th day of April 1977.

Denton E. Sprague,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-12525 Filed 4-29-77;8:45 am]

[Designation Number A473]

TENNESSEE

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Tennessee Counties as a result of extremely cold weather and freezes December 27, 1976, through February 21, 1977:

DeKalb
Grundy
Warren

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Ray Blanton that such designation be made.

Applications for emergency loans must be received by this Department no later than June 16, 1977, for physical losses and January 16, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 25th day of April, 1977.

Denton E. Sprague,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-12460 Filed 4-29-77;8:45 am]

Forest Service

COOPERATIVE GYPSY MOTH SUPPRESSION AND REGULATORY PROGRAM—1977 ACTIVITIES

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, and Animal and Plant Health Inspection Service, Department of Agriculture, have prepared for the 1977 activities, a Final Environmental Statement for the Cooperative Gpysy Moth Suppression and Regulatory Program, USDA-FS-APHIS(Adm) 77-01.

The Final Statement concerns a cooperative suppression program with the States of Pennsylvania and New Jersey to protect forests and forest resources on about 100,595 acres of high-value, high-use forest land from unacceptable damage by the gypsy moth. Most areas will be sprayed with carbaryl or trichlorfon insecticides. Some areas will be treated with acephate and Dimilin insecticides. The cooperative regulatory program is designed to prevent artificial long-distance spread and to eradicate remote infestations in the United States.

This Final Statement was filed with CEQ on April 26, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20013.
USDA Animal and Plant Health Inspection Service, Administration Bldg., Room 302-E, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, 6816 Market Street, Room 409, Upper Darby, Pa. 19082.

A limited number of single copies are available upon request to John R. McGuire, Chief, U.S. Forest Service, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

Copies of the Final Environmental Statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

R. MAX PETERSON,
Deputy Chief, Forest Service.

APRIL 20, 1977.

[FR Doc.77-12448 Filed 4-29-77;8:45 am]

EAGLE CREEK DAM AND RESERVOIR

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Eagle Creek Dam and Reservoir, USDA-FS-R3 DES Adm. 77-02.

The environmental statement concerns a proposed construction of an earthen and rock fill dam on Eagle Creek to provide domestic water storage.

This draft environmental statement was transmitted to CEQ on April 25, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Southwestern Region, 517 Gold Avenue SW., Albuquerque, New Mexico 87102.
Lincoln National Forest, 11th and New York Sts., Alamogordo, New Mexico 88310.

A limited number of single copies are available upon request to James R. Abbott, Forest Supervisor, 11th & New York Sts., Alamogorde, New Mexico 88310.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and request for additional information should be addressed to M. J. Hassell, Regional Forester, Southwestern Region, 517 Gold Ave. S.W., Albuquerque, New Mexico, 87102. Comments must be received within 60 days from the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environmental statement.

GARY E. CARGILL,
Acting Regional Forester Region 3.

APRIL 25, 1977.

[FR Doc.77-12449 Filed 4-29-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

NEW MEXICO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 10:30 p.m. on May 11, 1977, in the Albuquerque Hilton Inn, 1901 University Blvd. NE., Albuquerque, New Mexico 87106.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Southwestern Regional Office of the Commission, New Moore Building, Room 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting will be mainly concerned with developing program in New Mexico. Major items on the agenda will include Indian employment in State government. Farmington follow-up, and the release of the New Mexico handbook, Working With Your School.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 26, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-12422 Filed 4-29-77;8:45 am]

VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 9:30 p.m. on May 26, 1977, in Morton's Tea Room, 2 East Franklin Street, Richmond, Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to review a paper prepared by staff for a conference in June.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 26, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-12423 Filed 4-29-77;8:45 am]

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 6:00 p.m. and will end at 10:00 p.m. on May 17, 1977, at 2404 Ken Oak Road, Baltimore, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss current projects and plans for new programs, and receive subcommittee reports on education, housing and employment.

This meeting will be conducted pursuant to provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 29, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-12745 Filed 4-29-77;11:53 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON AGRICULTURE STATISTICS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I (Supp. V, 1975)), notice is hereby given that the Census Advisory Committee on Agriculture Statistics will convene on May 25, 1977 at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

This Committee was established in 1962 to advise the Director, Bureau of the Census, concerning the kind of information that should be obtained from agricultural respondents; to prepare recommendations regarding the contents of agricultural reports; and to present the views and needs for data of major agricultural organizations and their members, and other suppliers and users of agricultural statistics.

The Committee is composed of 21 members appointed by the presidents of the nonprofit organizations having representatives on the Committee, and two members from the U.S. Department of Agriculture.

Th agenda for the meeting is: (1) Status of 1974 Agriculture Census Program; (2) legislation relating to the census of agriculture; (3) report on meetings with farmers regarding census forms; (4) 1978 mail list development, including the Statistical Reporting Service list sample frame and Census Bureau mail list plans; (5) review of content proposal for the 1978 Census of Agriculture Program including all farm items, county sample items, follow-on survey items, and irrigation and drainage; and (6) Committee recommendations.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Hr. Orvin L. Wilhite, Chief, Agriculture Division, Bureau of the Census, Room 3015, Federal Building 4, Suitland, Maryland. Mail address, Washington, D.C. 20233. Telephone 301-763-5230.

Dated: April 26, 1977.

Robert L. Hagan,
Acting Director,
Bureau of the Census.

[FR Doc.77-12461 Filed 4-29-77;8:45 am]

National Bureau of Standards

TASK FORCE MEETING

Computer Networking Standards for Library and Information Science Community

A task force has been established to address the problem of developing high-level computer-to-computer protocols for the nationwide interchange of information among existing and planned library and information science networks.

Members of the task force were designated by the National Commission on Libraries and Information Science on the basis of their recognized experience and knowledge in the area of computer-to-computer data interchange for this class of application, and their competence in developing related computer networking standard protocols. The task force receives technical support from the NBS Institute for Computer Sciences and Technology.

The results of the task force effort, expected to be completed in September 1977, will be provided directly to the American National Standards Institute, the American Library Association, and the American Society for Information Science for their respective consideration in development and adoption of standards directed specifically to the library and information science community.

All meetings of this task force will be open to the public; the purpose of this public notice is to announce the fifth task force meeting which will be held on May 16 and 17, 1977, in Room 10104, New Executive Office Building, 17th and H Streets NW., Washington, D.C. The sessions will convene at 9 a.m. Future meetings of this task force will be announced in the Federal Register.

For further information, interested members of the public may contact John L. Little, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone: 301/921-3723.

Dated: April 27, 1977.

John D. Hoffman,
Acting Director.

[FR Doc.77-12533 Filed 4-29-77;8:45 am]

National Oceanic and Atmospheric Administration

TRANSFER OF A FISHING VESSEL TO A RESIDENT ALIEN

Receipt of Application for Approval

Notice is hereby given that on April 5, 1977, the Maritime Administration of the Department of Commerce received an application from Mr. Fred P. Landers, 2001 57th Street, Tampa, Florida 33619, for the approval of the sale to Mr. Hau Hong Pham of the 31.6 foot registered length fishing vessel *Capt. Dave*, O.N. 271731. Such approval is required by Sections 9 and 37 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835), because the applicant, a resident alien, is a citizen of Vietnam. The vessel will be modified to be admeasured at under 5 net tons and will be operated primarily in the Florida fishery for shrimp.

The Maritime Administration is the Federal agency responsible for the approval or disapproval of applications submitted pursuant to Sections 9 and 37 of the Shipping Act. However, the Maritime Administration customarily solicits the views of the National Marine Fisheries Service before deciding on an application relating to a fishing vessel, and has sought the views of the Service with regard to this application. Accordingly, the Service solicits the written comments of interested persons in regard to this application. Such comments should be addressed to the Director, National Marine Fisheries Service, Washington, D.C. 20235, and received no later than June 1, 1977. All communications received by such date will be considered before action is taken with respect to this application.

Dated: April 26, 1977.

Jack W. Gehringer,
Deputy Director, National
Marine Fisheries Service.

[FR Doc.77-12513 Filed 4-29-77;8:45 am]

WEATHER MODIFICATION ADVISORY BOARD

Change in Location of Public Meeting

Notice is hereby given of a change in the meeting Notice of the Weather Modification Advisory Board published in the Federal Register, Vol. 42, No. 70, on April 12, 1977. The meeting location will be changed from Room B-841 of the Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C. to Conference Room 545 of the National Science Foundation, 1800 G Street, N.W., Washington, D.C. The agenda and daily convening times for May 4 and 5, 1977, remain unchanged.

Dated: April 29, 1977.

T. P. Gleiter,
Assistant Administrator
for Administration.

[FR Doc.77-12748 Filed 4-29-77;12:11 pm]

CONSUMER PRODUCT SAFETY COMMISSION

PRODUCT SAFETY ADVISORY COUNCIL

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council (PSAC) on Monday, May 16, 1977 from 9:30 a.m. to 5 p.m. and Tuesday, May 17, 1977 from 9:30 a.m. to 4 p.m., in the third floor hearing room, 1111 18th St. NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The Advisory Council was established by section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The agenda for this meeting is not final, but will include on Monday a discussion of the proposed plan for establishing an Office of Public Participation within CPSC and proposed rules for financial compensation for participation in Commission activities; and review of a draft policy on voluntary safety standards. On Tuesday, the agenda will include a discussion of the Commission's priority-setting mid-year review of its activities.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Advisory Council should notify the Office of the Secretary (see address below) by May 11, 1977.

The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the appropriate time requested.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dee Wilson, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207. (202-634-7700).

Dated: April 28, 1977.

Sadye E. Dunn,
Secretary.

[FR Doc.77-12701 Filed 4-29-77;9:34 am]

DEPARTMENT OF DEFENSE

Department of the Army, Chief of Engineers

ENVIRONMENTAL ADVISORY BOARD

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the next meeting of the Environmental

Advisory Board (EAB) of the Chief of Engineers will be held on May 24, 1977, at the Office of the Chief of Engineers, Forrestal Building, room 5A092, 10th and Independence Avenue SW., Washington, D.C. 20314. All sessions of the meeting are open to the public. Time and subjects of each session follow:

A.M. SESSION

0900—Opening remarks.
0930—Report of the EAB: Policy recommendations for mitigation or compensation of unpreventable losses to fish and wildlife.
1045—Discussion of EAB report.

P.M. SESSION

1345—Continue discussion.
1430—Civil works update.
1530—Adjourn.

Seating in the meeting room is limited to approximately 20 persons. Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following, the meeting, but oral participation by the public is limited because of the time schedule. Persons planning to attend or desiring further information should contact Lt. Col. John R. Hill, Jr., Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, telephone 202-693-7093.

The EAB will conduct a workshop session on May 23, room 4A242, Forrestal Building, to prepare for their report to be delivered during the plenary session on May 24. There will be no formal discussions or presentations during this workshop session. Interested members of the public will, however, be permitted to observe this workshop session. Interested persons should contact Lt. Col. Hill.

JOHN R. HILL, Jr.,
Lt. Col., Corps of Engineers, Assistant Director of Civil Works, Environmental Programs.

[FR Doc.77-12514 Filed 4-29-77;8:45 am]

Department of the Navy

NAVY RESALE SYSTEM ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Navy Resale System Advisory Committee will meet on May 23, 1977, at the Naval Air Station, Alameda, California. Sessions of the meeting will commence at 9:00 a.m. and terminate at 12 noon. All sessions of the meeting will be closed to public.

The purpose of the meeting will be to review and discuss the internal policies and practices of Navy Resale affairs. The agenda will consist of matters relating solely to the internal personnel rules and practices of the Department of the Navy and trade secrets and commercial or financial information obtained from a person which is privileged or confidential, including discussions of standards of conduct, financial and audit programs, staffing and funding of commissary stores and Navy Exchange inventory shortages. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in sections 552(c) (2) and (4) of title 5, United States Code.

For further information concerning this matter, contact Commander J. D. Felt, Director, Resale Program Assistance Staff, Naval Supply Systems Command (SUP-09B), Washington, D.C. 20376, telephone number 202-695-5437.

Dated: April 27, 1977.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.77-12478 Filed 4-29-77;8:45 am]

NAVAL RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on May 19-20, 1977 at the Pentagon, Room 4E577, Washington, D.C. Sessions of the May 19 meeting will commence at 9:00 a.m. and terminate at 4:30 p.m. Sessions of the May 20 meeting will commence at 9:00 a.m. and terminate at 3:30 p.m. All sessions of the meeting will be closed to the public.

The purpose of the meeting will be to discuss technical programs of Navy Centers/Laboratories. The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order, including discussion of information on Command, Control and Communications, Intelligence, Surveillance, Advanced Weapons Survivability, Undersea Warfare and ship Survivability. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meetin be closed to the public because they will be concerned with the matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Mrs. Marianne Jennison, Executive Secretary of the Naval Research Advisory Committee, Ballston Tower No. 1, Arlington, VA 22217; telephone number 202-692-4263.

Dated: April 27, 1977.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc. 77-12477 Filed 4-29-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 723-1, OPP-00050]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: There will be a two-day special subcommittee meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Monday, May 16, and Tuesday, May 17, 1977. The meeting will be held in Rm. 2812 (a) and (b), Waterside Mall, 401 M St. SW., Washington, D.C. 20460. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-567), Rm. E-315, EPA, 401 M St. SW., Washington, D.C. 20460, telephone 202-755-4851.

SUPPLEMENTARY INFORMATION: In accordance with Section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25 (a) prior to implementation. The purpose of this meeting is to discuss the topic:

Advance draft of the subpart on human hazard evaluation of the guidelines for registering pesticides in the United States.

Any member of the public wishing to attend this meeting should contact Dr. H. Wade Fowler, Jr., at the address shown above. Time will be allotted for brief comments by the public each day; interested persons should contact Dr. Fowler for special instructions regarding oral statements. Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Advisory panel. All statements will be made a part of the record and will be taken into consideration by the Panel in formulating its own comments.

All interested persons are further advised that the meeting announced in this notice is a subcommittee meeting of the Advisory Panel for the purpose of conducting preliminary reviews of draft proposed rulemaking. Formal review of topics considered by the subcommittee will be conducted by the FIFRA Scientific Advisory Panel at a later date.

(Sec. 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.) and sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: April 28, 1977.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-12658 Filed 4-29-77;8:45 am]

[FRL 722-4; OPP—42010B]

OREGON

Submission of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides—Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On March 10, 1976, the Oregon State Plan was approved contingent upon the promulgation of regulations by the Oregon Department of Agricuture necessary for the implementation of the Oregon State Plan. Notice of contingent approval was published in the Federal Register on March 30, 1976 (41 FR 13397). Subsequently, on April 4, 1977, regulations to amend the Oregon Pesticide Statutes became effective. Having reviewed the legislation and the regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA Region X, hereby gives notice that the Oregon State Plan is now a fully approved State Plan.

Dated: April 21, 1977.

Donald P. Dubois,
Regional Administrator, U.S. Environmental Protection Agency, Region X.

[FR Doc.77-12535 Filed 4-29-77;8:45 am]

[FRL 722-5]

SCIENCE ADVISORY BOARD ENVIRONMENTAL MEASUREMENTS ADVISORY COMMITTEE

Open Meeting

Pursuant to Pub. L. 82-463, notice is hereby given that a meeting of the Environmental Measurements Advisory Committee will be held beginning at 9:00 a.m., May 19, 1977 in Conference Room 1101 of the West Tower, Waterside Mall, 401 M Street SW., Washington, D.C.

This is the seventh meeting of the Committee. The agenda includes current activities of the Science Advisory Board; status of the Subcommittee for Automotive Catalytic Converter Emission Studies; a report by the Chairman of the Task Group for the review of the EPA Air and Water Monitoring Strategies; a briefing on the quantification of 2,3,7,8 TCDD in environmental samples; progress on the Committee's assessment of the quality of the measurement and monitoring activities by the Agency's Office of Research and Development; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or obtain additional information should contact Dr. A. F. Forziati, Executive Secretary, Environmental Measurements Advisory Committee, (703) 557-7720 by close of business May 16, 1977.

Lloyd T. Taylor,
Acting Staff Director, Science Advisory Board.

April 27, 1977.

[FR Doc.77-12536 Filed 4-29-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

LANDED COSTS

Establishment of Costs for Certain Crude Oils, October 1973–September 1974 and October 1974–May 1975

Notice is hereby given of the proper measurement of costs as determined by the Federal Energy Administration (FEA) for certain crude oils when imported pursuant to a transaction between affiliated entities. This notice supersedes those published on June 26, 1975 (40 FR 27058 and 27059) and August 29, 1975 (40 FR 39934), pursuant to which Notices of Proposed Disallowance (NOPD) were issued. Such NOPD's were challenged by their recipients and never matured into Orders of Disallowance. Since this notice supersedes those issued in 1975, the NOPD's issued pursuant thereto wil be superseded by any new NOPD's issued for the same periods. Pursunat to 10 CFR 212.83(b), FEA intends to disallow costs in excess of those set out in Appendix A to this notice.

Section 212.83(b) provides:

> Whenever a firm uses a landed cost which it computed by use of its customary accounting procedures, the FEA may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect the actual costs of these entities or the FEA may disallow costs which it determines to be in excess of the proper measurement of costs.

This section was first issued by the Cost of Living Council as part of an amendment to § 150.363 of its Phase IV price regulations, September 12, 1973 (38 FR 25688) and has been continued in force by the Federal Energy Administration, first as 10 CFR 212.83(e) and as 10 CFR 212.83(f).

To establish standards for applying this section and to adopt more definitive regulations in this area, FEA went through two proposed rulemakings culminating in the promulgation of 10 CFR 212.84. See 39 FR 17771 (May 20, 1974), 39 FR 32310 (September 5, 1974), 39 FR 38364 (October 31, 1974). In its proposed rulemakings and in its preamble to § 212.84, FEA indicated its intent to apply the standards in § 212.84 as interpretative of "actual costs" and the "proper measurement of costs" as used in § 212.83(b).

> To the extent that the standards in these regulations are applied to months earlier than October 1974, they are not intended to alter or to expand in any way the authority which FEA presently has under its existing regulations. Rather the proposed regulations are interpretative in nature, setting out with more precision the methods for measurement of actual landed costs, which is required in any application of (§ 212.83(f)).
>
> FEA will compute representative arms-length prices for the period from October 1973 through September 1974 and use such prices as standards for disallowing costs pursuant to § 212.83(e) as it always read. Because § 212.83 provided only general guidance, however, and because of great price uncertainty during much of this period, FEA may allow somewhat greater leeway in determining appropriate transfer prices for this period than is provided for in the new regulation and FEA may permit some form of offset. In addition, the form of remedy may differ from that for the prospective months. 39 FR 38365 (October 31, 1974)

The prices in Appendix A have been calculated on the basis of data submitted pursuant to FEA Instructions to Form F701-M-O and constitute in general "maximum" prices as defined in § 212.84(e)(2). They represent, except for Indonesia, the higher of: (i) The lowest price, plus 10 cents per barrel, at which fifty percent or more (as measured by volume) of arms-length transactions in that reference crude oil and related crude oils, loaded during the particular month and reported to FEA, took place, or (ii) the lowest price at which 65 percent or more (as measured by volume) of the arms-length transactions, in that reference and related crude oils, loaded during the particular month and reported to FEA, took place. The Indonesian price is the official selling price.

Since the notices published by FEA on June 26, 1975, and on August 29, 1975, FEA has received resubmission of FEA Form F701-M-O from reporting companies. These resubmissions, along with other information received by FEA, have changed FEA's base data sufficiently to justify a recalculation of the maximum allowable prices.

For Venezuela, adjustments for related crudes have been made using, with slight modification, the differences in the tax-export values in effect since January 1974. These values ascribe a premium for low-sulphur crude oils (those with a sulphur content of 1.6 percent or less) whereas the values before that period did not. In view of the fact that low-sulphur oils did enjoy a market premium during the period covered by this notice, FEA has determined that the relative differences in tax-export values in the schedule for January 1974 are more reflective of relative market values. FEA has further used for Venezuela crudes an average adjustment of $0.06 per API degree for gravity.

In accordance with § 212.84(f), no designation of a reference crude has been made whenever (i) the number of arms-length transactions of at least 100,000 barrels is less than four, (ii) the total volume is less than 600,000 barrels, or (iii) more than 35 percent of the transactions by volume are pursuant to a single contract.

For the period preceding the adoption of § 212.84, FEA utilized the maximum prices rather than the representative prices in order to provide greater leeway in the disallowance calculation. The representative price was used from October 1974 onward when § 212.84 was adopted. Accordingly, in this instance, for the pre-October 1974 period covered by this Notice, FEA is using maximum rather than representative prices. The maximum price by definition embraces at least 65 percent of all reported arms-length transactions as opposed to the 50 percent included within the representative price. Thus the maximum price takes account of the greater dispersion in prices which existed during this time.

Prices have been computed on a country-by-country basis. This conforms with § 212.84, and is particularly important during this period since traditional value relationships were not maintained and significant variations in crude oil prices developed based on individual producing government actions. As an additional degree of freedom, FEA is permitting any overages to be first offset against any undercharges within a month for imported crude oils from the same country of origin.

For the month of October 1973 in which most producing governments changed their tax reference prices in mid-month, FEA is using for purposes of disallowance the maximum prices calculated for November 1973.

In the instances in which the volume or nature of third party transactions is insufficient to permit the direct calculation of arms-length prices, prices have been calculated in accordance with the procedures of § 212.84(e)(6), as modified in the Notice and Order on the Determination of Maximum and Representative Prices for January 1975, dated June 20, 1975 (40 FR 27058, June 26, 1975).

To prevent the disclosure of proprietary information, prices are being published only for crude streams in which sales (including sales in related crudes) have been reported to FEA by three or more sellers, including, for this purpose, sales by host governments, or by companies buying from a host government and reselling in an arms-length transaction. Prices are also being published when sales have been reported to FEA by three or more purchasers except when less than three persons generally make sales of the particular reference and related crudes.

Notice is also hereby given of the representative and maximum prices as determined by FEA for certain crude oils when imported pursuant to a transaction between affiliated entities for the months of October 1974 through May 1975. These prices, in general, have been calculated pursuant to § 212.84(e) and modified by the Notice and Order on the Determination of Representative and Maximum Prices for January 1975, dated June 20, 1975 (40 FR 27058, June 26, 1975).

In two countries that have more than one reference crude, Saudi Arabia and Venezuela, FEA has sufficient data to calculate arms length prices each month for most, but not all, reference crudes. In those months when the volume or nature of transactions in one of the reference crudes is insufficient to calculate an arms length price, FEA has derived the reference crude price by relating it to one of the other reference crudes from the same country which has a valid arms length price.

In Venezuela, the transactions for one month are insufficient to determine an arms length price for all of the three Venezuelan reference crudes. Rather than calculating a price by reference to a crude from another country for that month, FEA has decided to use as the allowed cost the averages of the respective maximum and representative prices for the immediately preceding and succeeding months. FEA believes that this procedure provides a better estimate of arms-length prices since it is based directly upon arms-length sales of the crude for which the price is being calculated.

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A

Maximum prices

Reference crudes	October 1973	November 1973	December 1973	January 1974	February 1974	March 1974	April 1974
Abu Dhabi (TC-010)	$4.77	$4.77	$4.74	$11.85	$11.83	$11.99	$12.24
Algeria (AG-020)	8.59	8.59	8.19	14.13	14.16	14.22	14.09
Angola (AO-030) [1]	7.53	7.53	7.57	17.39	16.92	12.99	15.05
Colombia (CO-040) [2]			[1] 6.52				
Dubai (TC-015) [2]							
Ecuador (EC-050) [2]					[1] 10.21	[1] 10.47	[1] 10.17
Indonesia (ID-070) [3]	6.00	6.00	6.00	10.80	10.80	10.80	11.70
Iran (IR-080)	4.38	4.38	4.33	10.67	11.72	10.72	11.19
Kuwait (KU-110)	3.88	3.88	3.80	9.65	9.80	9.80	9.85
Libya (LY-120)	7.55	7.55	9.05	14.33	14.68	14.01	13.54
Neutral zone (IY-138) [2]						[1] 9.40	[1] 9.40
Nigeria (NI-140)	7.17	7.17	7.29	17.04	16.57	12.64	14.69
Norway (NO-158) [2]					[1] 14.73	[1] 14.06	[1] 13.59
Saudi Arabia (SA-180)	3.94	3.94	3.91	9.74	9.75	9.80	9.80
Trinidad (TD-190)	7.05	7.05	7.20	11.03	11.43	11.68	11.38
Venezuela (VE-235)	5.27	5.27	5.42	9.26	9.66	9.91	9.61

[1] Does not meet requirements of 212.84(f)(1). Figures are based on comparison to most similar crude in same geographic region.

[2] Less than three sellers. Data treated as proprietary.

[3] Price set by regulation at official selling price.

Maximum prices

Reference crude	May 1974	June 1974	July 1974	August 1974	September 1974
Abu Dhabi (TC-010)	$11.88	$11.41	$11.55	$11.28	$11.27
Algeria (AG-020)	14.08	14.09	13.28	13.26	13.23
Angola (AO-030) [1]	13.98	13.72	13.26	12.96	12.64
Dubai (TC-015) [2]		[1] 11.03	[1] 10.81	[1] 10.59	
Ecuador (EC-050) [2]	[1] 10.18		[1] 10.53	[1] 10.50	[1] 10.57
Egypt (EG-056) [2]	[1] 10.59	[1] 10.55	[1] 10.33	[1] 10.11	[1] 9.95
Indonesia (ID-070) [3]	11.70	11.70	12.60	12.60	12.60
Iran (IR-080)	11.04	11.00	10.78	10.56	10.39
Kuwait (KU-110)	10.10	10.10	9.85	10.04	10.05
Libya (LY-120)	12.65	12.57	12.38	12.44	12.68
Nigeria (NI-140)	13.62	13.36	12.90	12.60	12.28
Norway (NO-158) [2]	[1] 12.69	[1] 12.62	[1] 12.42	[1] 12.48	[1] 12.72
Saudi Arabia (SA-180)	9.85	9.85	10.10	9.98	10.00
Trinidad (TD-190) [1]	11.39	11.39	11.74	11.70	11.76
Venezuela (VE-235)	9.62	9.62	9.97	9.93	9.99

[1] Does not meet requirements of 212.84(f)(1). Figures are based on comparison to most similar crude in same geographic region.

[2] Less than three sellers. Data treated as proprietary.

[3] Price set by regulation at official selling price.

Maximum prices

Reference crude	October 1974	November 1974	December 1974	January 1975	February 1975	March 1975	April 1975	May 1975
Abu Dhabi (TC-010)	$11.51	$11.40	$11.46	$11.62	$11.10	$11.37	$10.96	$10.86
Algeria (AG-020)	12.52	12.39	12.35	12.17	12.17	12.15	11.80	11.78
Angola (AO-030) [1]	12.21	12.39	12.32	12.21	12.22	12.28	12.09	12.10
Dubai (TC-015) [2]				[1] 10.80			[1] 10.73	
Ecuador (EC-050) [3]	[3] 11.05	[3] 11.40	[3] 11.33	[3] 12.27	[3] 11.85	[3] 11.42	[3] 11.37	[3] 11.43
Indonesia (ID-070) [3]	12.60	12.60	12.60	12.60	12.60	12.60	12.60	12.60
Iran:								
(IR-080)	10.63	10.74	10.68	10.78	10.77	10.78	10.70	10.75
(IR-082)	10.47	10.60	10.64	10.56	10.56	10.55	10.55	10.54
Kuwait (KU-110)	10.26	10.56	10.56	10.43	10.44	10.44	10.47	10.47
Libya (LY-120)	12.58	12.36	12.35	12.05	12.07	12.06	11.62	11.52
Nigeria (NI-140)	11.85	12.03	11.95	11.84	11.85	11.91	11.72	11.73
Saudi Arabia:								
(SA-180)	10.48	10.56	10.56	10.57	10.56	10.56	10.56	10.56
(SA-181)	10.10	10.37	10.35	10.37	10.37	10.37	10.37	10.37
(SA-182)	10.31	10.47	10.49	10.48	10.49	10.64	10.48	10.58
Trinidad (TD-190) [1]	12.17	12.49	12.40	13.36	12.94	12.51	12.46	12.52
Venezuela:								
(VE-234)	10.90	11.22	11.13	12.10	11.68	11.25	11.20	11.26
(VE-235)	9.78	10.74	9.90	11.62	11.26	10.89	10.67	10.78
(VE-236)	9.86	9.90	9.86	11.26	10.90	10.53	10.46	10.34

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[1] Does not meet requirements of 212.84(f)(1). Figures are based on comparison to most similar crude in same geographic region.

[2] Less than three sellers. Data treated as proprietary.

[3] Price set by regulation at official selling price.

Representative prices

Reference crude	October 1974	November 1974	December 1974	January 1975	February 1975	March 1975	April 1975	May 1975
Abu Dhabi (TC-010)	$11.39	$11.30	$11.36	$11.43	$10.91	$11.00	$10.86	$10.75
Algeria (AG-020)	12.42	12.26	12.22	12.07	12.07	12.05	11.70	11.68
Angola (AO-030) [1]	12.06	12.29	12.22	12.11	12.13	12.18	11.99	12.00
Dubai (TC-015) [2]				[1] 10.70			[1] 10.63	
Ecuador (EC-050) [3]	[3] 10.79	[3] 10.85	[3] 10.81	[3] 11.92	[3] 11.62	[3] 11.32	[3] 11.27	[3] 11.33
Indonesia (ID-070) [3]	12.60	12.60	12.60	12.60	12.60	12.60	12.60	12.60
Iran:								
(IR-080)	10.50	10.64	10.55	10.68	10.67	10.68	10.60	10.65
(IR-082)	10.33	10.50	10.54	10.46	10.46	10.45	10.45	10.44
Kuwait (KU-110)	10.16	10.46	10.46	10.33	10.34	10.34	10.37	10.37
Libya (LY-120)	12.36	12.25	12.25	11.95	11.97	11.96	11.50	10.92
Nigeria (NI-140)	11.70	11.93	11.85	11.74	11.75	11.81	11.62	11.63
Saudi Arabia:								
(SA-180)	10.28	10.46	10.46	10.47	10.46	10.46	10.46	10.46
(SA-181)	10.00	10.27	10.25	10.27	10.27	10.27	10.27	10.27
(SA-182)	10.19	10.37	10.39	10.38	10.39	10.45	10.38	10.44
Trinidad (TD-190) [1]	11.91	11.94	11.88	13.01	12.71	12.41	12.36	12.42
Venezuela:								
(VE-234)	10.64	10.67	10.61	11.75	11.45	11.15	11.10	11.16
(VE-235)	9.68	10.19	9.68	11.27	11.03	10.79	10.57	10.63
(VE-236)	9.76	9.80	9.76	10.91	10.67	10.43	10.36	10.24

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[1] Does not meet requirements of 212.84(f)(1). Figures are based on comparison to most similar crude in same geographic region.

[2] Less than three sellers. Data treated as proprietary.

[3] Price set by regulation at official seling price.

[FR Doc.77-12255 Filed 4-26-77;10:04 am]

PRIVACY ACT

Transfer of Control of Records in a System of Records

The Federal Energy Administration (FEA) hereby gives notice of a change in the custodianship of all records contained within the system of records designated as "FEA-7, Investigative Report Records." The FEA has recently established an Office of the Inspector General (OIG), which reports directly to the Administrator. Among other duties, the OIG will perform those investigations formerly performed by the FEA Office of Security which result in the creation of records within FEA-7. Accordingly, the description of FEA-7, as last published in the annual republication of all Agency systems of records at 41 FR 40076, is hereby amended to reflect that the Inspector General, Office of the Inspector General, is the new custodian of the records contained within that system of records. Therefore, the description of the category "System location" within the description of FEA-7 as previously published shall now be:

Office of the Inspector General, Federal Energy Administration, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

The description of the category "System Manager(s) and Address" within the description of FEA-7 as previously published shall now be:

Inspector General, Office of the Inspector General, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

The description of FEA-7 is unchanged in all other respects.

Privacy Act of 1974 (5 U.S.C. 552a); Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185, June 27, 1974).)

Issued in Washington, D.C., April 27, 1977.

Eric J. Fygi,
Acting General Counsel.

[FR Doc.77-12612 Filed 5-2-77;8:45 am]

FEDERAL MARITIME COMMISSION

BOARD OF TRUSTEES OF THE GALVESTON WHARVES AND ST. JOHN SHIPPING CO., INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 23, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Carl S. Parker, Jr., Traffic Manager, Galveston Wharves, P.O. Box 328, Galveston, Texas 77550.

Agreement No. T-3456, between the Board of Trustees of the Galveston Wharves (Port) and St. John Shipping Co., Inc., (St. John), is a 10-year terminal agreement whereby the Port grants St. John a preferential first call on berth and a preferential assignment of transit shed at Piers 30-33 at the Port of Galveston for the mooring, berthing, loading and unloading of vessels and for the accumulation and movement of cargo. As compensation, St. John shall pay Port charges for such premises and for all services, as more particularly described in the Port's tariff. St. John shall advance to the Port the sum of $234,000.00 for roofing reconstruction over the transit shed facility, which will be credited back in this same amount to St. John in forty equal quarterly payments over a ten-year period as partial payment of published tariff charges for the preferential assignment.

By Order of the Federal Maritime Commission.

Dated: April 27, 1977.

Joseph C. Polking,
Acting Secretary.

[FR Doc.77-12522 Filed 4-29-77;8:45 am]

[Independent Ocean Freight Forwarder License 1111]

HERMANN LUDWIG OF CALIFORNIA INC.

Order of Revocation

On April 25, 1977, Hermann Ludwig of California Inc., 427 W. Fifth Street, Los Angeles, CA 90013, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1111 for revocation.

By virtue of authority vested in me by the Federal Martime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1111 issued to Hermann Ludwig of California Inc., be and is hereby revoked effective April 25, 1977 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the Federal Register and served upon Hermann Ludwig of California Inc.

Leroy F. Fuller,
Director, Bureau of Certification & Licensing.

[FR Doc.77-12523 Filed 4-29-77;8:45 am]

[No. 77-11]

PACIFIC CRUISE CONFERENCE—PETITION FOR DECLARATORY ORDER

Filing of Petition for Declaratory Order

April 26, 1977.

Notice is hereby given that a petition has been filed by the Pacific Cruise Conference requesting the Commission to issue a declaratory order on the question of whether certain practices of Savers Travel Club, Ltd. and/or Save-On Travel, Inc. are in violation of the Shipping Act, 1916 and/or FMC Agreement No. 131. The practices are said to involve the solicitation of cruise passage through an offer of a "cash bonus" which is given in the form of a certificate redeemable for travelers checks at participating Savings and Loan institutions.

Replies to the petition may be filed by Savers Travel Club, Ltd., Save-On Travel Inc. and the Commission's Bureau of Hearing Counsel on or before May 16, 1977.

Joseph C. Polking,
Acting Secretary.

[FR Doc.77-12524 Filed 4-29-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-217]

CENTRAL MAINE POWER CO.

Order Denying Request To Reject or, in the Alternative, To Suspend for Five Months, Granting Intervention, Denying Intervention, Establishing Additional Procedures, and Denying Motion for Reconsideration

April 26, 1977.

Electric rates; suspension; intervention; additional procedures; motion for reconsideration.

On March 30, 1977, the Commission issued an order in the above-entitled proceeding[1] that, inter alia, accepted for filing a proposed rate increase tendered by Central Maine Power Company (Company), suspended that increase for a day, and established procedures for determining the lawfulness of that increase. By letter filed April 1, 1977, Kennebunk Light and Power District, Madison Electric Works, and Fox Island Electric Cooperative, Inc. (Customers) stated that the Commission, in its March 30th order, did not consider their protest, petition to intervene, and motion.[2] The Customers request that the Commission issue an order permitting them to intervene because (1) they are municipally or cooperatively owned electric distribution systems which purchase all of their capacity and energy requirements from the Company, (2) the Company's proposed rate increase is substantial and will affect the Customers, and (3) their interests cannot be adequately represented by the other parties. Because the Customers have met the requirements of Section 1.8 of the Commission's Rules of Practice and Procedure, we will permit them to intervene.

In support of their motion to reject, the Customers state that the entire filing or a portion thereof should be rejected because the Company's increase in depreciation rates included the use of a change in the remaining lives of depreciable property. According to the Customers, such a depreciation change without the Commission authorization is prohibited by Section 302 of the Federal Power Act. The Company, in its response,[3] states that this argument is without merit since Section 302 expressly reserves the right of a State Commission to set depreciation rates in the exercise of its jurisdiction over retail rates. Consequently, the Company states that the changes in depreciation rates (recommended by a management consultant study) were implemented only pursuant to an order of the Maine Public Utilities Commission. We do not believe that the Company's filing or a portion thereof warrants rejection. The issue of depreciation changes presents a factual question that can only be resolved after a full evidentiary hearing is made. For it was noted in *Municipal Light Boards* v. *F.P.C.*, 450 F. 2d 1341, 1346 (1971), that a rejection by the Federal Power Commission of a matter submitted for filing is a "peremptory form of response to filed tariffs" which classically is used not to dispose of matter on the merits but rather is used as a technique for calling on the filing party to put its papers in proper form and order. In this case, the Company's papers are in order.

In their alternative motion to suspend the Company's filing for 5 months, the Customers make several arguments. Firstly, the Customers argue that the Company has overstated its rate base and over-allocated that portion of the rate base assigned to the jurisdictional class by using improper cost allocation methods or methods that are inconsistent with Commission precedent. Some of the examples cited by the Customers are (1) including $35,138,900 of investment in subsidiary companies in the rate base; (2) use of a year-end rate base; (3) use of the single-annual peak method in determining the demand allocation factor; (4) failure to use "rolled-in" transmission plant; and (5) improper allocation of general plant.

Secondly, the Customers contend that the Company has included excessive expenses in its cost of service. However the Customers further state that, although it was not possible to determine the overall effect of the excessive expenses, the immediate effect is to substantially increase the Company's revenue requirement.

Thirdly, the Customers allege that the Company has inflated its capital structure by including therein a number of items (such as investments in its subsidiary and affiliates) which are excluded by Commission precedent. The effect of this improper inclusion, state the Customers, is an excessive rate of return.

Finally, the Customers state that the Company's rates to its wholesale customers will be higher than its equivalent retail rates which it is now charging to its retail customers.

The Company, in its response, merely states that the above-mentioned allegations are unsupported and should afford no basis for a full five month suspension. We conclude that the one day suspension set forth in our March 30th order was appropriate. The allegations raised in the Customer's motion and in the Company's response present factual questions that can only be resolved after a full evidentiary record is made. Our March 30th order found that a hearing should be held on the question of the lawfulness of the Company's filing. However, none of the arguments presented in the motion to suspend convince us that a change in the suspension period is warranted. The length of a suspension period is within the Commission's discretion. *Municipal Light Boards* v. *F.P.C.*,

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[1] That order also encompassed Docket No. ER77-216, which is not involved in this matter herein discussed.

[2] The protest, petition to intervene, and motion to reject and/or suspend for five months was filed on March 21, 1977.

[3] The Company's response to the Customer's pleading was filed on April 1, 1977.

450 F. 2d 1341 (D.C. Cir. 1971). The pleadings before us, in our judgment, sustain the one-day suspension of our March 30th order.

As to the price squeeze issue, further procedures are necessary to coincide with our recently adopted Order No. 563.[4] We hereby direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Customers' request for data required to present their case, including a prima facie showing, on the price squeeze issue. Also the Company shall be required to respond within 30 days, to the discovery requests authorized by the Administrative Law Judge and the Customers shall file their case-in-chief on the price squeeze issue within 30 days after the Company's response.

By letter addressed to the Secretary dated March 24, 1977, the Town of Kennebunk Board of Selectmen requested that it be granted intervenor status. This letter will not be treated as a petition to intervene as it is patently deficient in meeting the requirements of Section 1.8 of the Commission's Rules of Practice and Procedure in that there were no allegations of facts from which the nature of the Board of Selectmen's alleged right or grounds for the proposed intervention can be determined. However, we will permit the letter to be treated as a protest and, as such, we have considered it in determining the appropriate action to be taken on the Company's filing.

On April 11, 1977, Customers filed an application requesting rehearing of the order of March 30, 1977.[5] In that application, Customers request the Commission to grant them intervention in this proceeding. Our action herein does grant that request. Customers also renew their arguments for rejection or for a five months suspension of the subject rate filing. Our discussion of those arguments considers and adequately disposes of the issues presented by Customers' application.

The Commission finds:

(1) Good cause exists to deny the motion to reject or, in alternative, to suspend for five months the proposed increased rates filed by Company on February 28, 1977.

(2) Good cause exists to establish additional procedures to effectuate the Commission's policy announced in Order No. 563.

(3) The participation in this proceeding of Kennebunk Light and Power District, Madison Electric Works, and Fox Islands Electric Cooperative, Inc. may be in the public interest.

(4) Good cause does not exist at this time to grant intervention to the Town of Kennebunk Board of Selectmen.

(5) The application for rehearing filed by Customers on April 1, 1977, treated as a motion for reconsideration of the suspension order of March 30, 1977, presents no new facts or principles of law that were not considered by the Commission when it issued that order or, now having been considered, warrant any change or modification of said order. Accordingly, good cause exists to deny the application for modification of the subject order.

The Commission orders:

(A) The motion to reject or, in the alternative, to suspend for five months the proposed increased rates filed by Company is hereby denied.

(B) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Customers request for data required to present their case, including a prima facie showing, on the price squeeze issue. Also, the company shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the Customers shall file their case-in-chief on the price squeeze issue within 30 days after the Company's response.

(C) Kennebunk Light and Power District, Madison Electric Works, and Fox Islands Electric are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petition to intervene; and *Provided further*, That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) The Town of Kennebunk Board of Selectmen are denied intervenor status without prejudice. Their request will be reconsidered if they meet the requirements of our rules (18 CFR § 1.8).

(E) The application for rehearing filed by Customers on April 11, 1977, treated as a motion for reconsideration of the suspension order of March 30, 1977, is hereby denied.

(F) The order of March 30, 1977, issued in this proceeding shall remain in full force and effect except as hereinabove modified.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12493 Field 4-29-77;8:45 am]

[Docket No. ER77-316]

CENTRAL TELEPHONE AND UTILITIES CORP.

Application for Tariff Change

APRIL 26, 1977.

Take notice that Central Telephone & Utilities Corporation (CTU) on April 18, 1977, tendered for filing proposed changes in its Federal Power Commission Electric Service Tariff No. 33.

CTU states that the filing is Service Schedule P, Interim Power Service which provides electric power and accompanying energy to be supplied June 1, 1977, through May 31, 1978, to Sunflower Electric Cooperative, Inc. (Sunflower). CTU indicates that it desires to sell Sunflower 30 MW of capacity as a result of the installation of a specific 630 MW steam electric generating unit identified as La Cygne Unit No. 2, which is owned by Kansas Gas and Electric Company and Kansas City Power & Light Company. CTU also indicates that it has contracted with Kansas Gas and Electric Company for 60 MW of capacity from La Cygne No. 2 for the period June 1, 1977, through May 31, 1978, and desires to sell 30 MW of this capacity to Sunflower.

CTU states that copies of the filing were served upon Sunflower Electric Cooperative, Inc. and the Utilities Division of the State Corporation Commission.

Any person desiring to be heard or to protest said Application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commision's Rules and Practice of Procedure (18 CFR 1.8, 1.10). Such petitions or protests should be filed on or before May 6, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12484 Filed 4-29-77;8:45 am]

[Docket No. ER76-709]

CINCINNATI GAS AND ELECTRIC CO.

Filing of Settlement Agreement and Motion for Approval of Said Agreement

APRIL 26, 1977.

Take notice that Cincinnati Gas and Electric Company (CG&E) on April 19, 1977 tendered for filing a Settlement Agreement and a Motion for Approval of said Agreement.

CG&E indicates that the Settlement Agreement arises out of conferences and discussions with the Commission Staff, the Union Light, Heat and Power Company, Interlake, Inc., and the Commonwealth of Kentucky. CG&E further indicates that it has not been able to make a settlement agreement with the Village of Georgetown, Ohio.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 13, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

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[4] See, Order Prescribing A New Section 2.16 of the Commission's General Policy and Interpretations and Terminating Rulemaking, Order No. 563, Docket No. RM76-29, issued March 21, 1977.

[5] Rehearing of an interlocutory order such as the March 30th suspension order is not permitted by the Federal Power Act or our Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12488 Filed 4-29-77;8:45 am]

[Docket No. RI76-146]

EQUIPMENT, INC., AND ANNCO PETROLEUM, INC.

Order Granting Petition for Special Relief

APRIL 25, 1977.

On August 23, 1976, Equipment, Inc., and Annco Petroleum, Inc. (Equipment) filed a petition for special relief pursuant to § 2.76 [1] of the Commission's general policy and interpretations for the sale of gas to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) from the E. Savoie #1 Well located in the Lawtell Field, St. Landry Parish, Louisiana.[2] Equipment is making this sale under its small producer certificate issued in Docket No. CS71-511 on October 12, 1971, and as successor in interest to a contract dated May 27, 1960, between various small producers and American Louisiana Pipeline Company (American Louisiana). Michigan Wisconsin has succeeded to the interest of American Louisiana.

In its petition Equipment states that production from the subject well is no longer economical at the current price of 26.79 cents per Mcf at 15.025 psia. As a result, Equipment seeks Commission authorization to increase its rate to 87.74 cents per Mcf. By contract amendment dated May 12, 1976, Michigan Wisconsin has agreed to pay Equipment the increased rate in consideration for the installation of compression facilities and the performance of certain remedial operations by Equipment.

Notice of the petition was issued on September 17, 1976, and appeared in the Federal Register on September 24, 1976, at 41 FR 41958. No petitions to intervene have been filed.

Staff has reviewed the cost information supplied by Equipment and based thereon has determined that the proposed rate is cost justified.[3] Upon consideration of the data submitted and Staff's analysis thereof, we conclude that the petition should be granted.

The Commission finds: The petition for special relief filed by Equipment in Docket No. RI76-146 meets the criteria set forth in § 2.76 of the Commission's general policy and interpretations.

The Commission orders: For the above-stated reasons, the petition for special relief filed by Equipment in Docket No. RI76-146 is hereby granted. Equipment is authorized to collect from Michigan Wisconsin a total rate of 87.74 cents per Mcf at 15.025 psia for all gas produced from the subject well effective as of the date of issuance of this order, provided Equipment files with the Commission within 30 days hereof a statement signed by Michigan Wisconsin that the remedial work performed by Equipment has been completed to Michigan Wisconsin's satisfaction.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12509 Filed 4-29-77;8:45 am]

[Docket No. ES77-30]

GULF STATES UTILITIES CO.

Application

APRIL 26, 1977.

Take notice that on April 20, 1977, Gulf States Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of 350,000 Additional Shares of Common Stock.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge and vicinity.

The Applicant proposes to sell the Additional Common Stock from time to time pursuant to the provisions of an Employees Thrift Plan in accordance with the Commission's Regulations under the Federal Power Act.

From time to time as sales of the new securities occur, the proceeds will be added to the general funds of the Company to be used to refund a portion of its short-term notes.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12492 Filed 4-29-77;8:45 am]

[Docket No. ER77-308]

LOUISVILLE GAS AND ELECTRIC CO.

Tariff Change

APRIL 26, 1977.

Take notice that Louisville Gas and Electric Company (Louisville) on April 18, 1977, tendered for filing proposed changes in its Interconnection Agreement between Louisville and Kentucky Utilities Company (Kentucky) designated Louisville Gas and Electric Company FPC Rate Schedule No. 20. Louisville indicates that the proposed changes would increase revenues from jurisdictional sales and service by $213,000 based on the 12 months period ending February 28, 1977.

Louisville further indicates that the purpose of this filing is to increase the demand charge for Short Term Power as set forth on Service Schedule D from 45¢ per kilowatt-week to 60¢ per kilowatt-week and that this proposed revision reflects a desire on the part of both parties to attain the optimum benefit from the interconnection of their system.

Louisville requests that these proposed changes become effective as of June 1, 1977.

Copies of the filing were served upon Kentucky Utilities Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commissions' Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12487 Filed 4-29-77;8:45 am]

[Docket No. RP76-50]

MICHIGAN WISCONSIN PIPE LINE CO.

Availability of Draft Environmental Impact Statement

APRIL 26, 1977.

Notice is hereby given in the above Docket that on April 30, 1977, a Draft Environmental Impact Statement prepared by the staff of the Federal Power Commission has been published and is available for review and comment in conformity with the National Environmental Policy Act of 1969 (42 USC 4321 et seq.) and Section 2.82(b) of the Commission's General Policy and Interpretations (18 CFR 2.82(b)).

This draft statement deals with the environmental impact of alternative permanent curtailment plans proposed in Docket No. RP76-50 across the Michigan Wisconsin Pipe Line Company system.

This draft statement has been circulated to Federal, State, and local agencies, and has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE.,

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[1] 18 CFR 2.76.

[2] Equipment filed an amendment to its petition on January 28, 1977.

[3] Appendix A filed as part of the original.

Washington, D.C. 20426 and its Regional Office located at 230 South Dearborn Street, Chicago, Illinois 60604. Copies are also available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

Any comments on the Draft Environmental Impact Statement shall be filed with the Commission on or before June 27, 1977, and mailed to the following address:

Secretary, Federal Power Commission, Washington, D.C. 20426.

All parties filing comments with the Commission on the Draft Environmental Statement should transmit ten copies of their comments to the Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, D.C. 20006.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12486 Filed 4-29-77;8:45 am]

[Docket No. CP77-343]

MOUNTAIN FUEL SUPPLY CO.

Application

APRIL 26, 1977.

Take notice that on April 18, 1977, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-343 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation and operation of pipeline and related facilities necessary to bring into Applicant's system new and additional supplies of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct, install, and operate approximately 20 miles of 10-inch diameter pipeline together with necessary valves, meters and ancillary facilities extending from the Whiskey Buttes field area in Lincoln and Sweetwater Counties, Wyoming, through the Bruff area, Uinta, Sweetwater, and Lincoln Counties, Wyoming, to a point on Applicant's interstate transmission system in Uinta County, Wyoming, near Granger, Wyoming. Applicant states that the proposed facilities are necessary to bring into its system new and additional supplies of natural gas needed to augment its existing primary natural gas suplies and to help offset the continuing decline in deliveries from existing fields dedicated to Applicant's market area and curtailment of deliveries by Applicant's principal supplier, Northwest Pipeline Corporation.

At present, there is one well completed in the Whiskey Buttes area, with the prospect of several additional productive wells being drilled in the area, and there are four wells in the Bruff area, through which the proposed line would pass, which are currently capable of production, it is said. It is stated that additional drilling is continuing in the Bruff area also. Applicant states that initially, deliverability from the Whiskey Buttes well is estimated to be in excess of 3 million Mcf of natural gas per day, and deliverability from the existing Bruff wells is estimated at 6 million Mcf per day. There are also several other wells in various stages of drilling as well as several proposals to drill additional wells in the vicinity of the proposed line it is asserted. Applicant indicates that it has a gas call on a portion of the production from one of the already completed wells in the vicinity of the proposed line, holds gas calls on substantial as yet undeveloped acreage, and owns substantial working interests in undeveloped acreage adjacent to and in the vicinity of the proposed pipeline.

Applicant states that the proposed pipeline would be entering and traversing the Moxa Arch geologic area, one of the most active wildcat areas in the Rocky Mountains, and there is already in existance on intrastate line into the area. Applicant states that pipeline routing by it has been designed to give interstate pipeline access to the substantial volume of discoverable reserves in the Moxa Arch area while making maximum use of existing pipeline rights-of-way. Applicant asserts that a ready interstate pipeline outlet for newly discovered gas in the area would stimulate the exploration for and development of the substantial volume of undiscovered natural gas reserves believed by Applicant to exist along or in the vicinity of the proposed pipeline, while at the same time offering the interstate market an opportunity to compete for newly discovered reserves.

Applicant states that for approximately 10.3 miles of its length the proposed pipeline would parallel an existing oil pipeline, and another approximately 6.1 miles of the proposed line would be on the existing Bruff pipeline and well lateral rights-of-way. Only for approximately 3.6 miles of the pipeline route would there be necessary deviation from the existing pipeline routes, and in those instances the proposed pipeline is to follow the most convenient route, it is said.

Applicant states that the estimated cost of the proposed facilities is $1,640,000 which would be financed by Applicant out of funds obtained from internal sources and from short-term bank borrowings as may be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-12489 Filed 4-29-77;8:45 am]

[Docket No. RP76-9]

NATIONAL FUEL GAS SUPPLY CORP.

Filing of Revisions to Settlement Agreement

APRIL 26, 1977.

Take notice that on April 18, 1977, National Fuel Gas Supply Corporation (National Fuel) tendered for filing certain revisions to the proposed settlement agreement certified to the Commission in the captioned proceeding on September 27, 1977. National Fuel states that the revisions having resulted from further settlement discussions among the parties, reduce the settlement cost of service by $23,666.

Any person desiring to be heard or to protest said revisions to the proposed settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 9, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12485 Filed 4-29-77;8:45 am]

[Docket Nos. CP76-313, CP76-381, CP76-536, CP77-353]

NATIONAL FUEL GAS SUPPLY CORP., ET AL.

Order To Show Cause Why Sale of Storage Gas in Place to be Delivered Over a Period Exceeding 60 Days Is Permitted Under § 2.68 of the Commission's Rules and Regulations and Not in Violation of the Natural Gas Act; and Consolidating Proceedings

APRIL 22, 1977.

National Fuel Gas Supply Corporation, Transcontinental Gas Pipe Line Corporation, Columbia Gas Transmission Corporation, and National Fuel Gas Supply Corporation, National Fuel Gas Distribution Corporation.

National Fuel Gas Distribution Corporation (Distribution) sold gas in place in storage to South Jersey Gas Company and UGI Corporation. In our Order of January 19, 1977, in Docket Nos. CP76–313, et al., the validity of utilizing § 2.68 of the Commission's Rules and Regulations to sell gas in place in storage in excess of a 60-day delivery period was brought into question. The petition to Intervene Out of Time filed by Distribution on March 7, 1977, brought to our attention the fact that there now exists no appropriate proceeding in which to determine the validity of utilizing § 2.68 for such purposes. We shall therefore herein institute a proceeding in which Distribution shall be afforded the opportunity to show cause why such sales are not outside the ambit of § 2.68 and, as such, are sales in interstate commerce in violation of section 7 of the Natural Gas Act.

These sales are part of the same transactions giving rise to the consolidated proceedings in Docket Nos. CP76–313, et al., and for hearing and decisional purposes should be consolidated therewith.

The institution of this instant proceeding and consolidation thereof with Docket Nos. CP76–313, et al., renders moot Distribution's Petition to Intervene Out of Time in those proceedings.

The Commission orders: (A) Within 45 days form the issuance of this Order Distribution shall come forward with appropriate evidence and show cause why the sale of natural gas to South Jersey Gas Company and UGI Corporation are not in violation of the Natural Gas Act, particularly sections 1, 4, and 7 thereof.

(B) The proceedings in Docket Nos. CP76–313, CP76–381, CP76–536, and this CP77–353 are consolidated for purposes of hearing and disposition.

(C) Distribution's Petition for Leave to Intervene Out of Time is denied as moot.

(D) Notices of Intervention and Petitions to Intervene in Docket No. CP77–353 may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before May 20, 1977, in accordance with the Commission's Rules of Practice and Procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–12507 Filed 4–29–77;8:45 am]

[Docket Nos. ER77–97, ER77–75]

NEW ENGLAND POWER CO.

Order Granting Late Intervention

APRIL 26, 1977.

Electric Rates: (Interventions).

By order issued January 5, 1977, the Commission accepted for filing rate changes (Rate R–11) proposed by New England Power Company (NEPCO) in Docket No. ER77–97, suspended their effectiveness until February 1, 1977, and mandated hearing procedures to determine the lawfulness of said charges.

Public notice of NEPCO's filing in Docket No. ER77–97 was issued on December 15, 1976, with protests or petitions to intervene due on or before December 31, 1976.

On April 4, 1977, the Attorney General of the Commonwealth of Massachusetts, Francis X. Bellotti, and the Massachusetts Consumer Council, a state agency, filed an untimely petition to intervene.

Petitioners submit that one of NEPCO's wholesale customers is Massachusetts Electric Company which in turn supplies several hundred thousand retail customers in Massachusetts. Petitioners allege that the interests of these ultimate consumers will not be adequately represented by the current intervenors in this case, and that petitioners' intervention is in the public interest.

In light of the foregoing, the Commission concludes that the Petitioners should be permitted to intervene in this proceeding.

The Commission finds:

Participation in this proceeding by the Petitioners is in the public interest.

The Commission orders:

(A) The Petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of these Petitioners shall be limited to matters affecting asserted rights and interests as specifically set forth in their petition to intervene; and *Provided, further,* That the admission of these Petitioners shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–12490 Filed 4–29–77;8:45 am]

NATIONAL FUEL GAS SUPPLY CORP, ET AL.

[Docket No. CP76–313, etc.]

Order To Show Cause

APRIL 22, 1977.

National Fuel Gas Supply Corp., Docket No. CP76–313; Transcontinental Gas Pipe Line Corp., Docket No. CP76–381; Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp., Docket No. CP76–536; National Fuel Gas Distribution Corp., Docket No. CP77–353.

Order to show cause why sale of storage gas in place to be delivered over a period exceeding 60 days is permitted under section 2.68 of the Commission's Rules and Regulations and not in violation of the Natural Gas Act; and consolidating proceedings.

National Fuel Gas Distribution Corporation (Distribution) sold gas in place in storage to South Jersey Gas Company and UGI Corporation. In our Order of January 19, 1977, in Docket Nos. CP76–313, et al., the validity of utilizing Section 2.68 of the Commission's Rules and Regulations to sell gas in place in storage in excess of a 60-day delivery period was brought into question. The petition to Intervene Out of Time filed by Distribution on March 7, 1977, brought to our attention the fact that there now exists no appropriate proceeding in which to determine the validity of utilizing Section 2.68 for such purposes. We shall therefore herein institute a proceeding in which Distribution shall be afforded the opportunity to show cause why such sales are not outside the ambit of Section 2.68 and, as such, are sales in interstate commerce in violation of Section 7 of the Natural Gas Act.

These sales are part of the same transactions giving rise to the consolidated proceedings in Docket Nos. CP76–313, et al., and for hearing and decisional purposes should be consolidated therewith.

The institution of this instant proceeding and consolidation thereof with Docket Nos. CP76–313, et al., renders moot Distribution's Petition to Intervene Out of Time in those proceedings.

The Commission orders: (A) Within 45 days from the issuance of this Order Distribution shall come forward with appropriate evidence and show cause why the sale of natural gas to South Jersey Gas Company and UGI Corporation are not in violation of the Natural Gas Act, particularly Sections 1, 4, and 7 thereof.

(B) The proceedings in Docket Nos. CP76–313, CP76–381, CP76–536, and this CP77–353 are consolidated for purposes of hearing and disposition.

(C) Distribution's Petition for Leave to Intervene Out of Time is denied as moot.

(D) Notices of Intervention and Petitions to Intervene in Docket No. CP77–353 may be filed with the Federal Power Commission, Washington, D.C., 20426, on or before May 20, 1977, in accordance with the Commission's Rules of Practice and Procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–12497 Filed 4–29–77;8:45 am]

[Docket No. CP76–412]

NORTHERN NATURAL GAS CO.

Petition To Amend

APRIL 26, 1977.

Take notice that on April 15, 1977, Northern Natural Gas Company, (Petitioner) filed in Docket No. CP76–412 a petition to amend the Commission's order of January 19, 1977 (57 FPC ___), issued in the instant docket and Docket

No. CP76-425 pursuant to Section 7(b) of the Natural Gas Act so as to authorize Petitioner to retain certain facilities in place as an emergency interconnection with El Paso Natural Gas Company (El Paso), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to the Commission's order of January 19, 1977, issued in the instant docket and Docket No. CP76-425, Petitioner was authorized to abandon and remove 4,000 feet of 10-inch pipeline located in Peco County, Texas. Petitioner states that the pipeline connects its 6-inch gathering line with El Paso's 24-inch Gomez-Waha transmission line.

Petitioner asserts that in reflecting upon the severe winter just experienced and the measures that were necessary to move natural gas to high priority consumers, Petitioner believes it to be in the public interest to retain in place as an emergency interconnection with El Paso the pipeline it is authorized to abandon and remove. By retaining this pipeline in place the emergency interconnection can quickly be completed by the installation of the necessary measurement facilities, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12500 Filed 4-29-77;8:45 am]

[Docket No. E-9589]

NORTHERN STATES POWER CO.

Application for Authorization To Transmit Electric Energy to Foreign Country

APRIL 26, 1977.

Taken notice that Northern States Power Company (NSPC) on April 18, 1977, tendered for filing an application for authorization to transmit electric energy to Canada from the United States through facilities at the boundary of the United States and Canada, for which construction, operation, maintenance and connection is covered by application for Presidential Permit filed simultaneously herewith. With this filing NSPC also submitted for public inspection an Environmental Impact Statement.

NSPC indicates that the purchaser of the electric energy proposed to be transmitted is the Manitoba Hydro Electric Board (MHEB), Winnipeg, Manitoba, Canada. NSPC also indicates that the electric energy is proposed to be used by MHEB for supplying its electric system load requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12491 Filed 4-29-77;8:45 am]

[Docket No. RI77-14]

S.S.C. GAS PRODUCING CO.

Order Setting Date for Hearing

APRIL 25, 1977.

On November 24, 1976, S.S.C. Gas Producing Company (S.S.C.) filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76). S.S.C. requests authorization to increase its rate from the presently allowed 37.8 cents per Mcf to 76 cents per Mcf, inclusive of production taxes. S.S.C.'s sale to Trunkline Gas Company (Trunkline), is being made under a small producer certificate issued on January 31, 1972 in Docket No. CS72-258. The three wells here involved were commenced prior to January 1, 1973.

S.S.C. states that no additional investment is proposed to be made in order to recover this gas. It says only that the presently allowed rate "makes this production uneconomical and will precipitate its abandonment." (Petition at 1). In the event S.S.C. wishes to apply for abandonment of the subject wells, it must fully comply with Sections 157.5, 157.18, 157.30, 250.7 of the Commission's Regulations under the Natural Gas Act (18 CFR §§ 157.5, 157.18, 157.30, 250.7). Section 7 (b) of the Natural Gas Act (15 U.S.C. § 717f(b)) prohibits a company from abandoning its certificated service without prior Commission authorization. If a producer were to cease deliveries without Section 7(b) authorization, it would be incumbent upon the pipeline purchaser to immediately notify the Commission of such fact. It is the Commission's view that this petition does not meet the criteria for special relief set forth in Section 2.76. Therefore, this petition will be considered as one seeking a rate in excess of the adjusted national rate pursuant to Sections 2.56b(h) and 1.7(b) of the Commission's Regulations (18 CFR §§ 2.56b(h) and 1.7(b)). Under this special relief provision of Section 2.56b(h), Petitioner must justify its request for a higher rate by demonstrating that its out-of-pocket expenses incurred in the operation of the subject wells are greater than the revenues obtained from the sale of the gas therefrom. Out-of-pocket expenses are production expenses, regulatory expense and production taxes minus any liquid revenue credit. It is incumbant upon Petitioner to prove by his books and accounts that the operating expenses are in excess of the revenues earned from the sale of the gas from these three wells, in order for him to receive special relief.

Based upon S.S.C.'s filed data, Staff has caculated that Petitioner needs a rate of 31.627 cents per Mcf at 14.65 psia to cover its out-of-pocket expenses. Staff estimated the remaining recoverable reserves to be 70,593 Mcf of gas, no liquids and a productive like of 2.4 years.

S.S.C. estimated the remaining recoverable reserves to be 103,600 Mcf of gas, no liquids, together with a productive life of 3 years for the gas.

S.S.C. Petition was noticed December 27, 1976 and appeared in the FEDERAL REGISTER on December 27, 1976 at 41 F.R. 56236. A timely intervention was filed on January 10, 1977 by Trunkline by which, inter alia is agreed to pay S.S.C. 70.3 cents per Mcf, plus tax adjustment subject to the Commission's approval.

Upon consideration, the Commission has concluded that these matters can better be resolved by a formal hearing.

The Commission finds:

Good cause exists to set this proceeding for a formal hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. RI77-14, is set for hearing and disposition. The hearing will be held in a hearing room of the Federal Power Commission 825 North Capitol Street NE., Washington, D.C. 20426.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See, Delegation of Authority, 18 CFR § 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure.)

(C) S.S.C. shall file its direct testimony and evidence on or before May 2, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(D) Trunkline Gas Company is permitted to intervene in the above entitled proceeding, subject to the Rules and Regulations of the Commission: *Provided, however*, That its participation shall be limited to matters affecting their asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided further*, That the admission of Trunkline shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding.

(E) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on May 12, 1977 at 10:00 a.m. EST. in a hearing room at the address noted in Ordering Paragraph (A).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12495 Filed 4-29-77;8:45 am]

[Docket No. RP73-89 (PGA76-1)]

SEA ROBIN PIPELINE CO.

Order Terminating Show Cause Proceeding and Pipeline Refund Liability

APRIL 25, 1977.

By order of December 31, 1975, the Commission accepted for filing and suspended for one day a rate filing by Sea Robin Pipeline Company (Sea Robin) to collect increased costs of purchased gas through its Purchased Gas Adjustment Clause (PGA).[1] That order noted that Sea Robin's PGA filing reflected purchases at the small producer ceiling rate from Mesa Offshore Company (Mesa Offshore) which may not qualify for the small producer ceiling rate (130 percent of the national rate) prescribed in Opinion No. 742 issued August 28, 1975, in Docket No. R-393. Therefore, a show cause proceeding was instituted and Mesa Offshore was required to show cause why it should not be directed to reduce its rate to the national ceiling rate, make appropriate refunds, and file for authorization under section 7 of the Natural Gas Act to continue the sale to Sea Robin.

On February 27, 1976 and December 13, 1976, Mesa Offshore filed its answers to our show cause order and requested the issuance of an order determining that sales made pursuant to the February 1, 1972 Gas Purchase Contract between Mesa Offshore and Sea Robin are small producer sales and that a reduction in rates and a refund of the amounts collected in excess of the national rate are not required. Finding that Mesa Offshore has answered the questions raised in our earlier order, we will terminate both the show cause proceeding and Sea Robin's liability to refund amounts collected under the PGA filing.

Mesa Offshore is a wholly-owned subsidiary of Mesa Petroleum Company (Mesa Petroleum). A valid small producer certificate was held by Mesa Petroleum or its predecessor from December 1967 through April 30, 1973, when Mesa Petroleum's annual sales first exceeded the 10,000,000 Mcf small producer sales limitation as a result of its acquisition of Pubco Petroleum Corporation.[2]

The subject sale to Sea Robin is made under a contract dated February 1, 1972. Deliveries commenced on March 15, 1973.[3] Our order of December 31, 1975 raised two questions concerning Mesa Offshore's eligibility to make this sale at the small producer ceiling rate: first, whether Mesa Offshore was ever covered by its parent's small producer certificate; and second, if it were, whether this specific sale qualifies for the small producer ceiling rate, since it then appeared that the sale commenced after the parent, Mesa Petroleum, had become ineligible for a small producer exemption.

Responding to the first question, Mesa Offshore argues that in determining its status as a large or small producer, it stands in the same position as its affiliate parent, Mesa Petroleum. The answer notes that under our Regulations Section 157.40, Mesa Offshore could not become a separate small producer entity by obtaining a small producer certificate in its own name, and further suggests that our order certificating this sale for a limited term, issued July 13, 1973 in Docket No. CI73-663, recognized that Mesa Offshore held a small producer status under its parent's small producer certificate. As to the second question, this sale assertedly qualifies for the small producer ceiling rate under Section 157.40(d) of the Regulations because it is made under a contract executed on February 1, 1972, while Mesa Petroleum held a valid small producer certificate.[4] Alternatively, Mesa Offshore argues that the small producer ceiling rate is appropriate for this sale because the actual deliveries commenced under a sixty-day emergency sale on March 15, 1973, before the acquisition, which became effective April 30, 1973, increased Mesa Petroleum's total sales above the 10,000,000 Mcf qualifying limitation for small producer status.

We have concluded that this sale to Sea Robin is eligible for the small producer ceiling rate which is now being collected. The sales contract was executed by Mesa Offshore while its affiliate parent, Mesa Petroleum, held and qualified for a small producer certificate. While the Commission Regulations did not prohibit Mesa Offshore from obtaining separate small producer status,[5] under the particular circumstances as set forth herein Mesa Offshore was reasonable in its belief that it was covered by its parent's small producer certificate. Once small producer status has been terminated, under Section 157.40 of the Regulations the contract date is controlling in determining whether the small producer exemption applies to an earlier sale. Therefore, we shall terminate this show cause proceeding. Also, as this sale can properly be made at the small producer ceiling rate, we shall terminate Sea Robin's refund liability as to any revenues collected under this PGA filing. Previously, we had determined that all of the purchased gas cost increases reflected in that PGA filing, with the exception of the Mesa Offshore sale, were appropriately included.

The Commission finds: Good cause has been shown to terminate the show cause proceeding instituted by order of December 31, 1975, in this docket and to terminate Sea Robin's liability to refund amounts collected under its PGA filing made effective subject to refund on January 2, 1976.

The Commission orders: (A) The show cause proceeding instituted by order of December 31, 1975, in this docket is hereby terminated.

(B) The liability of Sea Robin to refund amounts collected under its PGA filing made effective on January 2, 1976, is hereby terminated.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12496 Filed 4-29-77;8:45 am]

[Docket Nos. RP71-130, RP72-58, and RP75-111]

TEXAS EASTERN TRANSMISSION CORP.

Extension of Time

APRIL 26, 1977.

On April 13, 1977, Consolidated Edison Company of New York, Inc. (Con Edison) filed a motion to extend the time for demonstrating to the Administrative Law Judge the "areas of unreliability in the current data" on which the curtailment plan is based, as ordered by Opinion No. 787, issued January 28, 1977.

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[1] Seventh Revised Sheet No. 4 to Sea Robin's FPC Gas Tariff, Original Volume No. 1 was accepted for filing on January 1, 1976 and permitted to become effective on January 2, 1976, subject to refund upon the outcome of the show cause proceeding instituted therein. Sea Robin was also granted leave to file revised tariff sheets, to become effective without suspension on January 1, 1976, which do not reflect the claimed increased costs associated with the purchases from Mesa Offshore Company.

[2] The Commission, by order of May 23, 1974 approved Mesa Petroleum's acquisition of Pubco Petroleum Corporation effective as of April 30, 1973. The small producer certificate held by Mesa Petroleum was formally terminated as of April 30, 1973, by order issued August 5, 1976, in Docket No. CS67-82. An Order denying Rehearing was issued on October 1, 1976 in Docket No. CS67-82.

[3] The order of December 31, 1975 instituting the show cause proceeding stated that these sales commenced with a sixty-day emergency sale from May 15 through July 12, 1973. Mesa Offshore notes in its answer that there were actually two emerency sales beginning with the sixty-day period from March 15, through May 13, 1973.

[4] Section 157.40(d) provides that upon termination of a small producer certificate "* * * the producer will be required to file separate certificate applications and individual rate schedules for future sales, but the exemption will still be effective as to those made under contracts prior to such termination."

[5] Such small producer status could only have been obtained by Mesa Offshore prior to April 30, 1973 while Mesa Petroleum was eligible for the small producer exemption.

Upon consideration, notice is hereby given that an extension of time is granted to and including June 29, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12498 Filed 4-29-77;8:45 am]

UNITED GAS PIPE LINE CO.

[Docket Nos. RP71-29, etc.]

Order Granting Motion for Establishment of Procedural Dates

APRIL 22, 1977.

On March 23, 1977, Columbia Gas Transmission Corporation ("Columbia") filed a motion seeking the establishment of the following procedural dates in Phase II to the end that the Commission would be able to achieve its present objective of establishing a just and reasonable curtailment plan prior to November 1, 1977:

April 8: Filing of all reply briefs.
June 29: Issuance of initial decision.
July 29: Filing of all briefs on exceptions.
August 18: Filing of all briefs opposing exceptions.

We note that the April 8 date for filing of reply briefs was established by order of the Acting Chief Presiding Administrative Law Judge issued March 8, 1977, and has been adhered to by most of the parties.

Southern Natural Gas Company ("Southern") on March 30, 1977, filed an answer to Columbia's motion suggesting in the alternative considerably shorter intervals between the procedural dates following the filing of reply briefs.

On the one hand, we are reluctant to set a firm date for the issuance of the initial decision due to our desire that the Judge have ample time to deliberate in this most complex of curtailment proceedings. On the other hand, the history of this proceeding and the highly adversary inclination of the parties suggests that exceptions are likely to be taken to the initial decision, irrespective of the care with which the Judge takes in its preparation. The Commission must have sufficient time before November 1, 1977, to consider the record in light of the exceptions or take any further procedural steps as are required to allow a just and reasonable curtailment plan to be effective on that date. The procedural dates suggested by Columbia would appear to permit all this to occur if there is little slippage. We do not believe, however, that the dates suggested by Southern will allow sufficient time for the Presiding Judge to fully review the record in this proceeding.

The Commission finds:

Good cause has been shown for establishing procedural dates in this proceeding as ordered below.

The Commission orders:

(A) The following dates shall constitute the dates on or before which the indicated action to issue or file shall be made by the Presiding Judge and all parties to this proceeding:

June 29: Issuance of initial decision.
July 29: Filing of all briefs on exceptions.
August 18: Filing of all briefs opposing exceptions.

(B) The Presiding Judge may request an extension of time for the issuance of the initial decision, provided that a request for extension in excess of two weeks should be supported with an explanation of the need for such an extension.

(C) The motion of Columbia is granted, and the motion of Southern is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12494 Filed 4-29-77;8:45 am]

[Docket No. CP76-469]

UNITED GAS PIPE LINE CO.

Filing of Original Tariff Sheets

APRIL 26, 1977.

Take notice that on April 12, 1977, United Gas Pipe Line Company (United) tendered for filing Original Sheet Nos. 707 through 716 to its FPC Gas Tariff, Original Volume No. 2, being a transportation agreement between United and Sea Robin Pipeline Company dated July 19, 1976. It is proposed that these tariff sheets become effective on the date the facilities to connect West Cameron Block 586 are completed and the transportation service certificated in Docket No. CP76-469 commences.

The Company states that copies of these tariff sheets have been received by Sea Robin Pipeline Company.

Any person desiring to be heard or to make any protest with refeernce to said application, on or before May 19, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and the subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12483 Filed 4-29-77;8:45 am]

[Docket No. ER76-331]

WISCONSIN POWER & LIGHT CO.

Motion for Order Approving Settlement Agreement

APRIL 26, 1977.

Take notice that Wisconsin Power and Light Company (WP&L) an April 6, 1977 tendered for filing a motion for an order (1) approving the Settlement Agreement among the parties dated as of April 1, 1977, and the rate schedules attached thereto; (2) accepting for filing effective March 4, 1976, the tariff sheets containing the settlement rates provided for in the Settlement Agreement; and (3) terminating these proceedings.

WP&L states that the intervenors in this proceeding concur in this motion.

Any person desiring to be heard or to protest said motion should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 13, 1977. Comments will be considered in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12499 Filed 4-29-77;8:45 am]

FEDERAL RESERVE SYSTEM

BANKER AGENCY, INC.

Order Approving Acquisition of Additional Shares of Bank

Banker Agency, Inc., Mohall, North Dakota, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire an additional 56 percent of the voting shares of The Citizens State Bank at Mohall, Mohall, North Dakota ("Bank"), thereby increasing its ownership of Bank's voting shares from 40 percent to 96 percent.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a one-bank holding company through its ownership of 40 percent of the outstanding voting shares of

Bank. By virtue of its control of Bank ($6.8 million in deposits), Applicant is the 94th largest banking organization in North Dakota, controlling 0.2 percent of the total commercial bank deposits in the State. Bank is located in Mohall, North Dakota, and is the smaller of the two banking organizations operating in the Westhope banking market, controlling 37 percent of market deposits.[1] Applicant proposes to exchange its shares for an additional 56 percent of Bank's outstanding voting shares. All of Bank's shares to be acquired by Applicant are presently held by members of the same family that controls Applicant. Since Applicant's proposal represents merely a reorganization of the ownership of a bank that Applicant already controls, consummation of the proposal would neither eliminate existing or potential competition, nor increase the concentration of banking resources. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and Bank are regarded as satisfactory and consistent with approval of the application. Although there will be no immediate change in the services offered by Bank as a result of consummation of the proposal, convenience and needs considerations are also consistent with approval of the application. Therefore, it is the Board's judgment that the proposed transaction is consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[2] effective April 25, 1977.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc.77-12435 Filed 4-29-77;8:45 am]

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[1] All banking data are as of December 31, 1975.

[2] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Partee and Lilly. Absent and not voting: Governors Coldwell and Jackson.

CHEMICAL FINANCIAL CORP.

Order Approving Acquisition of Bank

Chemical Financial Corporation, Midland, Michigan, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)), to acquire 100 percent of the voting shares of The Au Gres State Bank, Au Gres, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 27th largest banking organization in the State of Michigan, controls two banks[1] with aggregate deposits of $165.3 million, representing 0.53 percent of total deposits in commercial banks in the State.[2] Acquisition of Bank with deposits of $7.7 million would increase Applicant's share of commercial bank deposits in Michigan by 0.03 percent, but would not have an appreciable effect upon the concentration of banking resources in the State.

Bank is the smallest of four banks located in the relevant banking market[3] and controls 8.0 percent of market deposits. Since Applicant's subsidiary banks do not compete in the relevant banking market and Applicant's nearest office is 45 miles from Bank, no significant competition exists between them. Under Michigan banking laws, Applicant could establish a de novo bank in the relevant banking market, but such entry appears unlikely in view of the fact that the area has been growing less rapidly than in other parts of the State. In view of the foregoing, it is concluded that approval of this application would not have any significant adverse effects upon competition.

The financial and managerial resources and future prospects of Applicant, its existing subsidiary banks, and Bank are considered to be generally satisfactory. Although Applicant will incur acquisition debt in connection with the subject transaction, it appears that such indebtedness can be retired without unduly burdening the capital position of Applicant's existing subsidiary banks or Bank. Banking factors are consistent with approval of the application.

Applicant would improve Bank's services somewhat by reducing service charges on demand deposits, remodeling Bank's physical facilities, changing the rates and terms on mortgage loans, extending Bank's hours of operations, creating new time deposit services, and by introducing trust services and a Master Charge program to the relevant market. Convenience and needs considerations are consistent with and lend some weight toward approval of the application. Accordingly, it is the judgment of this Reserve Bank that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of Chicago approves the application provided the transaction shall not be consummated: (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago, pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective April 20, 1977.

Daniel M. Doyle,
First Vice President.

[FR Doc.77-12436 Filed 4-29-77;8:45 am]

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[1] By Order dated April 14, 1977, the Board of Governors approved Applicant's proposal to acquire the successor by merger to Gladwin County Bank, Beaverton, Michigan.

[2] All banking data as of June 30, 1976.

[3] The relevant banking market is approximated by all of Arenac and Ogemaw Counties, the western half of Iosco County, and Curtis Township from Alcona County.

COUNTRY BANK SHARES CORP.

Order Denying Acquisition of Bank

Country Bank Shares Corporation, Janesville, Wisconsin ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire 72.8 percent of the voting shares of the State Bank of Argyle, Argyle, Wisconsin ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant presently controls one bank, The Montello State Bank, Montello, Wisconsin, with deposits of $10.1 million, representing .07 percent of total commercial bank deposits in Wisconsin.[1] Bank ($9.5 million in deposits) is the sixth largest of thirteen commercial banking organizations competing in the Darlington/Monroe banking market,[2] controlling 5.0 percent of market deposits. Bank is currently controlled by McGuire Wausau Agency and Management Operations, Inc., both of which are controlled by applicant's principals. Several of Applicant's principals are affiliated with six other Wisconsin banks, each of which is located in a banking market separate from Bank. Inasmuch as the proposal involves essentially a restructuring of Bank's ownership, the proposed transfer would eliminate neither existing nor potential competition, and would not increase the concentration of banking resources in any relevant area. Therefore, competitive considerations are consistent with approval of the application.

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[1] All deposit data are as of December 31, 1975.

[2] The Darlington/Monroe banking market is approximated by Green County, except Decatur township and the eastern three-fifths of Lafayette County.

The Board's inquiry, however, does not end here. As the Board has indicated on previous occasions, it believes a bank holding company should constitute a source of both financial and managerial strength to its subsidiary bank(s). Accordingly, in acting upon any application under the Act, the Board will closely examine the financial condition, managerial resources, and future prospects of an applicant and its subsidiary bank(s) with these factors in mind. Based upon an evaluation of such factors with respect to this application, the Board has determined that denial of this application is warranted.

With respect to the financial resources and future prospects associated with this application, the record indicates that the overall financial condition of Applicant does not permit it to be a source of strength to Bank. Based upon an examination of all the facts of record, including the debt burden Applicant must bear and the flow of funds needed to service such debt, consummation of the proposal may cause Applicant to make demands upon Bank in the form of dividend payments which may serve to weaken the capital position of Bank. In view of the limited financial flexibility of Applicant, a strain may be placed upon Bank's capital position as a result of Applicant's debt servicing requirements. Furthermore, in light of Applicant's financial condition, it is not in a position to come to Bank's assistance in the event any unexpected problems arise at Bank. Accordingly, the Board concludes that financial considerations weigh against approval of this application.

With respect to managerial resources, the facts of record suggest that Applicant's principals have engaged in certain transactions involving other financial institutions with which they are affiliated which reflect unfavorably on the managerial resources of Applicant and lend weight for denial. In considering all the facts of record, the Board is unable to conclude that approval of the subject application would be consistent with the financial and managerial standards the Board is required to consider under section 3(c) of the Act, or that the public interest would be served by such action.

In regard to considerations relating to the convenience and needs of the communities to be served, the record indicates that banking needs are currently being adequately served by Bank. While these considerations appear to be consistent with approval of the application, they are not sufficient, in the Board's view, to outweigh the adverse banking factors reflected in the record that are associated with this proposal. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied. Accordingly, the application is hereby denied for the reasons summarized above.

By order of the Board of Governors,[2] effective April 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-12437 Filed 4-29-77;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on March 15, 1977.[1]

The information reviewed at this meeting suggests that growth in real output of goods and services has increased in the current quarter from the reduced pace in the fourth quarter of 1976. In February industrial output and retail sales expanded substantially after being held down for a time by the effects of unusually severe weather. Employment rose considerably further; the unemployment rate increased somewhat to 7.5 percent—as the labor force more than recovered the decline of January—but it remained below the 7.8 percent of December. The wholesale price index for all commodities rose substantially in February, reflecting large increases for farm products and foods and for fuels and power. The index of average wage rates rose more moderately over the first 2 months of 1977 than it had on the average during 1976.

The average value of the dollar against leading foreign currencies has changed little over the past month. In January the U.S. foreign trade deficit increased further; exports were down a little from the fourth-quarter rate and imports were substantially higher.

Growth in M-1 slowed sharply in February from the moderate pace in January. At banks and thrift institutions, inflows of time and savings deposits other than large-denomination CD's continued to slaken. Business demands for short-term credit appear to have strengthened further in early 1977. Since mid-February short-term market interest rates have changed little on balance, but most longer-term rates have edged higher.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster bank reserve and other financial conditions that will encourage continued economic expansion, while resisting inflationary pressures and contributing to a sustainable pattern of international transactions.

At is meeting on January 18, 1977, the Committee agreed that growth of M-1, M-2, and M-3 within ranges of 4½ to 6½ percent, 7 to 10 percent, and 8½ to 11½ percent, respectively, from the fourth quarter of 1976 to the fourth quarter of 1977 appears to be consistent with these objectives. These ranges are subject to reconsideration at any time as conditions warrant.

The Committee seeks to encourage near-term rates of growth in M-1 and M-2 on a path believed to be reasonably consistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, at present, it expects the annual growth rates over the March-April period to be within the ranges of 4½ to 8½ percent for M-1 and 7 to 11 percent for M-2. In the judgment of the Committee such growth rates are likely to be associated with a weekly average Federal funds rate of about 4⅝ to 4¾ percent. If, giving approximately equal weight to M-1 and M-2, it appears that growth rates over the 2-month period will deviate significantly from the midpoints of the indicated ranges, the operational objective for the Federal funds rate shall be modified in an orderly fashion within a range of 4¼ to 5¼ percent.

If it appears during the period before the next meeting that the operating constraints specified above are proving to the significantly inconsistent, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, April 22, 1977.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.77-12434 Filed 4-29-77;8:45 am]

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[2] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Partee, and Lilly. Absent and not voting: Governors Coldwell and Jackson.

[1] The Record of Policy Actions of the Committee for the meeting of March 15, 1977, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

VALLEY BANCORP.

Order Approving Acquisition of Bank

Valley Bancorporation, Appleton, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the Voting shares of The Brownsville State Bank, Brownsville, Wisconsin ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the sixth largest banking organization in Wisconsin, controls 14 banks with aggregate deposits of $272.1 million,[1] which represent about 1.7 percent of the total commercial bank deposits in the State. Applicant also controls a trust company and six other nonbank companies. Upon consummation of this proposal, the increase in commercial bank deposits controlled by Applicant would be only nominal, and Applicant's rank in the State would not change. The proposed acquisition would not result in a significant increase in the concentration of banking resources in Wisconsin.

Bank (deposits of $8.8 million) is the fourth largest of five banking organizations operating in the relevant market area,[2] controlling 14.3 percent of total market commercial bank deposits. The banking office of a subsidiary of Applicant closest to an office of Bank is located about 14 miles away and outside the relevant banking market. There is no meaningful competition presently existing between it and Bank, nor is there any existing competition between Bank and Applicant's other banks. Moreover, future competition between these banks is unlikely to develop due to the restrictions of Wisconsin branching law and the predominantly rural nature of the intervening areas. Although Applicant has the resources to enter the relevant market de novo, the population per banking office ratio and the low absolute population growth of the Brownsville area of the relevant market make the novo entry unlikely. Accordingly, competitive considerations are consistent with approval of the application.

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[1] All banking data are as of June 30, 1976.

[2] The relevant market is approximated by the northeastern one-fourth of Dodge County and the southeastern portion of Fond du Lac County, Wisconsin.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its existing subsidiary banks, and Bank are generally satisfactory and consistent with approval of the application, especially in view of certain capital commitments made by Applicant. Banking factors are consistent with approval of the application.

Applicant proposes to assist Bank in making available additional consumer and agricultural loans and municipal financing. Trust services, not now available in Brownsville, would be introduced by Bank with assistance from Applicant's trust company subsidiary. Convenience and needs considerations are consistent with and lend some weight toward approval of the application. It has been determined that the proposed acquisition is in the public interest and that the application should be approved for the reasons summarized above.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective April 19, 1977.

DANIEL M. DOYLE,
First Vice President.

[FR Doc.77-12439 Filed 4-29-77;8:45 am]

YOAKUM COUNTY BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

Yoakum County Bancshares, Inc., Denver City, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 96.04 percent of the voting shares (less directors' qualifying shares) of Yoakum County State Bank, Denver City, Texas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was formed for the purpose of becoming a bank holding company through the acquisition of Bank. Bank has total deposits of $17.8 million, representing 0.04 percent of total deposits in commercial banks in the State of Texas.[1] Bank is the larger of two commercial banks in the relevant banking market,[2] controlling 74.6 percent of the deposits therein. The purpose of the proposed transaction is to facilitate the transfer of the ownership of shares of Bank from individuals to a corporation owned by the same individuals. Principals of Applicant are principals of West Texas Bancorporation, a one-bank holding company controlling The First National Bank of Post, Post, Texas. First National Bank is located ninety-three miles from Bank in a separate banking market. In view of the relatively small sizes of Bank and First National Bank and the distance between them, consummation of the instant proposal will have no adverse effect upon existing or potential competition nor increase the concentration of banking resources in any relevant market. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The Board applies multi-bank holding company standards in assessing the financial and managerial resources and future prospects both of an applicant seeking to become a one-bank holding company, and of its proposed subsidiary bank, where the principals of the Applicant are engaged in establishing a chain of one-bank holding companies.[3] First National Bank appears to be in satisfactory condition, which suggests that Applicant's principals would conduct the operations of the proposed holding company and of Bank in a satisfactory manner. In addition, Applicant has committed that it will not declare dividends on its common stock unless the debt it will incur to purchase shares of Bank is amortized as projected in the application. Applicant has also committed that, in the event any such dividend is paid, certain capital ratios set forth in the application will be maintained. Applicant proposes to service the debt it will incur as a result of the proposed transaction through dividends from Bank over a 12-year period. Based on Bank's past earnings, it appears that Applicant will be able to meet its annual debt-servicing requirements and maintain Bank's capital position. These commitments together with other commitments by Applicant and Applicant's shareholders, individually, which commitments are contained in the instant application, cause the considerations relating to banking factors to be consistent with approval of the application.

It does not appear that the convenience and needs of the community to be served are not being met currently. Although there will be no immediate change in the services offered by Bank upon consummation of the proposal, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Consummation of the proposed transaction is in the public interest and it should be approved.

On the basis of the record, the application is approved for the reasons set forth above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective April 22, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-12438 Filed 4-29-77;8:45 am]

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[1] All deposit data are as of December 31, 1975.

[2] The relevant banking market is approximated by Yoakum County.

[3] See the Board's Order of June 14, 1976, denying the application of Nebraska Banco, Inc., Ord, Nebraska (62 *Fed. Res. Bull.* 638 (1976)).

GENERAL SERVICES ADMINISTRATION

PRIVACY ACT OF 1974

Additional System of Records

On March 22, 1977, there was published in the FEDERAL REGISTER (42 FR 15466) a notice of an additional system of records pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a. The public was given the opportunity to submit, not later than April 21, 1977, written comments concerning the proposed system of records. No comments were received and the proposed notice of the system of records, Defunct Agency Records, GSA/OAD-36, system identification number 23-00-0103, is hereby adopted.

Dated at Washington, D.C., on April 27, 1977.

PAUL S. CARTER,
Acting Director of Administration.

[FR Doc.77-12610 Filed 5-2-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, May 17, 18 and 19, 1977, from 9 a.m. to 4 p.m., each day, Room 5651, GSA Regional Office Building, Seventh and D Streets SW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of Architect-Engineers under consideration for selection to furnish professional services for three proposed projects: (1) Building Renovation, International Trade Commission Building, Washington, D.C. (2) Building Renovation, Federal Building and Courthouse, Wheeling, West Virginia (3) Building Renovation, Federal Building, 1951 Constitution Avenue, Washington, D.C. The meeting will be open to the public.

Dated: April 25, 1977.

JOHN F. GALUARDI,
Regional Administrator.

[FR Doc.77-12609 Filed 4-29-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION

Meeting

AGENCY: Advisory Council on Environmental Education, HEW/OE.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the Advisory Council on Environmental Education. It also describes the functions of the Council. Notice of the meeting is required by the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: May 18, 1977, 9:00 a.m. to 4:30 p.m., May 19, 1977, 9:00 a.m. to 12:30 p.m.

ADDRESS: Demonstration Center, Federal Office Building No. 6, Room 1134, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Bogan, Office of Environmental Education, Room 2025, FOB No. 6, 400 Maryland Avenue, SW., Washington, D.C. 20202, 202-245-9231.

SUPPLEMENTARY INFORMATION: The Advisory Council on Environmental Education is established under (20 U.S.C. 1532) Environmental Education Act, Pub. L. 91-516, section 3 (84 Stat. 1312), as amended by Pub. L. 93-278 (88 Stat. 121).

The Council shall: (A) Advise the Commissioner and the Office concerning the administration of, preparation of general regulations for, and operation of preparation of general regulations for, and operation of programs assisted under the Environmental Education Act;

(B) Make recommendations to the Office with respect to the allocation of funds appropriated pursuant to section 7 among the purposes set forth in paragraph (2) of subsection (b) of the Environmental Education Act and the criteria to be used in approving applications, which criteria shall insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(C) Develop criteria for the review of applications and their disposition; and

(D) Evaluate programs and projects assisted under the Environmental Education Act and disseminate the results thereof.

The meeting of the Council shall be open to the public. The meeting on May 18 will begin at 9:00 a.m. and end at 4:30 p.m. and on May 19 the meeting will begin at 9:00 a.m. and end at 12:30 p.m. The meeting will be held at the Office of Education, Demonstration Center, Federal Office Building No. 6 (FOB No. 6), located at 400 Maryland Avenue SW., Room 1134, Washington, D.C. 20202.

The proposed agenda includes: (1) Swearing-in and orientation of new members.

(2) Overview and summary of the implementation of the Environmental Education Act as of 1977.

(3) Review of the Commissioner's Annual Report to the Council.

(4) Presentation of two promising prototype products for Environmental Education:

One for formal education use
One for nonformal/adult education use

(5) General Council business for 1977.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Advisory Council on Environmental Education located in Room 2025, Federal Office Building No. 6, 400 Maryland Avenue SW., Washington, D.C.

Signed at Washington, D.C., on April 26, 1977.

WALTER J. BOGAN, Jr.,
Director, Office of Environmental Education.

[FR Doc.77-12431 Filed 4-29-77;8:45 am]

Health Resources Administration

GRADUATE MEDICAL EVALUATION NATIONAL ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1977:

NAME: Graduate Medical Education National Advisory Committee.

DATE AND TIME: June 27-28, 1977, 9 a.m.

PLACE: Conference Room G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open for entire meeting.

PURPOSE: The Graduate Medical Education National Advisory Committee is responsible for advising and making recommendations with respect to: (1) Present and future supply and requirements of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; (3) the impact of various activities which influence specialty distribution and the availability of training opportunities including systems of reimbursement and the financing of graduate medical education.

AGENDA: Primary attention will be devoted to providing Committee members with background information on the issues and a review of other major efforts that have been conducted in the last several years related to the Committee's mission. A portion of the meeting will be available for comments and participation by the public.

Limited seating will be available to the public on a first come, first served basis.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Frederick V. Featherstone, Bureau of Health Manpower, Room 4-42, Federal Center Building #2, 3700 East West Highway, Hyattsville, Maryland 20782.

Agenda items are subject to change as priorities dictate.

Dated: April 25, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-12432 Filed 4-29-77;8:45 am]

Office of the Secretary

BOARD OF ADVISORS TO THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Board of advisors to the Fund for the Improvement of Postsecondary Education will be held on May 15, 1977 at 5:00 p.m. through May 17, 1977 at 4:00 p.m. at the Dulles Marriott Hotel, Washington, D.C.

The Board of Advisors to the Fund was established to recommend to the Director of the Fund and the Assistant Secretary for Education priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount under section 404 of the General Education Provisions Act.

The meeting will not be open to the public. It will be for the sole purpose of reviewing and evaluating grant applications submitted to the Fund under the Comprehensive Program. The meeting will involve discussion of project designs, personnel, and other information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. It has therefore been determined that closing this meeting is in accordance with 5 U.S.C. 552b(c)(6) and the policies of the Federal Advisory Committee Act.

A summary of the proceeding of the meeting and a roster of members may be obtained from the Fund for the Improvement of Postsecondy Education, 400 Maryland Avenue SW., Room 3141, Washington, D.C. 20202, telephone 202-245-8091.

Signed at Washington, D.C., on April 19, 1977.

VIRGINIA B. SMITH,
Director, Fund for the Improvement of Postsecondary Education.

[FR Doc.77-12475 Filed 4-29-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 30285, 30286, 30325, 30327, 30328, and 30329]

NEW MEXICO

Applications

APRIL 22, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 17, SW¼NE¼.
T. 31 N., R. 9 W.,
Sec. 7, lots 19 and 20.
T. 32 N., R. 10 W.,
Sec. 34, lots 6 and 11.
T. 25 N., R. 12 W.,
Sec. 13, NW¼NE¼, N½NW¼ and SW¼NW¼.
T. 26 N., R. 12 W.,
Sec. 7, SE¼SW¼;
Sec. 18, S½NE¼ and E½NW¼.

These pipelines will convey natural gas across 1.869 miles of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-12516 Filed 4-29-77;8:45 am]

[NM 30326]

NEW MEXICO

Application

APRIL 22, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Inc. has applied for compressor station site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 28 E.,
Sec. 6, lot 9.

The compressor station site will occupy 0.92 acres of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-12515 Filed 4-29-77;8:45 am]

[OR 17295 Wash.]

WASHINGTON

Proposed Classification of Public Lands for Disposal by Exchange

APRIL 20, 1977.

Pursuant to the provisions of 43 CFR 2400, it is proposed to classify the lands described below for disposal through exchange under the Act of October 21, 1976 (90 Stat. 2743, 2756; 43 U.S.C. 1716), for lands within the Spokane Bureau of Land Management District.

WILLAMETTE MERIDIAN

T. 11 N., R. 24 E.,
Sec. 4, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 6, SE¼SW¼ and S½SE¼.
T. 12 N., R. 20 E.,
Sec. 12, E½E½.
T. 12 N., R. 21 E.,
Sec. 2, SW¼NW¼ and NW¼SW¼;
Sec. 4, lots 1, 2, 3, and 4, S½N½, E½SW¼, and SE¼;
Sec. 8, NW¼NE¼ and NE¼NW¼;
Sec. 10;
Sec. 14, SW¼.
T. 12 N., R. 22 E.,
Sec. 12, NW¼ and S½;
Sec. 18, lots 1, 2, 3, and 4, E½SW¼, and E½.
T. 12 N., R. 23 E.,
Sec. 2, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 10, NE¼ and NE¼NW¼;
Sec. 12, NE¼, E½SE¼, and N½NW¼.
T. 12 N., R. 24 E.,
Sec. 4, N½SW¼;
Sec. 6, lots 3, 4, 5, 6, and 7, SE¼NW¼ and E½SE¼;
Sec. 22, SW¼.
T. 13 N., R. 21 E.,
Sec. 32, N½NW¼ and E½SE¼;
Sec. 34, W½.
T. 13 N., R. 24 E.,
Sec. 20, E½SE¼;
Sec. 22, W½SW¼ and SE¼SW¼.

The areas described aggregate 5853.5 acres in Yakima and Benton counties. Publication of this notice will segregate the lands from all appropriations including location under the mining laws, except applications for exchange. Publication will not alter the applicability of the public land laws governing the disposal of their mineral and vegetative resources, other than the mining laws. In accordance with 43 CFR 2201.2 and 2202.1, no application for an exchange will be accepted until the land has been classified and the application is accompanied by a statement from the Spokane District Manager Bureau of Land Management, that the proposal is feasible.

Information concerning these lands is available at the Spokane District Office, Bureau of Land Management, Room 551, U.S. Court House, Spokane, Washington 99201.

MURL W. STORMS,
State Director.

[FR Doc.77-12517 Filed 4-29-77;8:45 am]

Office of the Secretary

COLORADO RIVER STORAGE PROJECT

Proposed Revised General Power Marketing; Criteria

Correction

FR Doc. No. 77-11519, filed April 20, 1977, page no. 20682, vol. 42, no. 77—Thursday, April 21, 1977. The deadline for comments is corrected to read "June 1, 1977."

Dated: April 27, 1977.

JAMES J. FLANNERY,
Acting Assistant, Secretary of the Interior.

[FR Doc.77-12476 Filed 4-29-77;8:45 am]

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Notice of Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on May 18, 1977, at the Ute Bottle Hollow Resort which is located 7 miles east of Roosevelt, Utah, on U.S. Highway 40. The meeting will begin at 8:30 a.m. on Wednesday, May 18, in the Avinaquin Convention Center and conclude at 4 p.m. that afternoon.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program. The purpose of this meeting is complete the Panel's review and to develop summary advice on the modifications of the Detailed Development Plan for oil shale lease Tract C-b, to receive reports from Interior officials, and to consider any other matters which have come before the Panel.

The meeting is open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the panel or file written statements. Requests should be made to Mr. Henry O. Ash, Acting Chairman, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. (303) 234-3275.

Further information concerning this meeting may also be obtained from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the panel office.

JAMES J. FLANNERY,
Acting Assistant Secretary of the Interior.

APRIL 29, 1977.

[FR Doc.77-12725 Filed 4-29-77;10:35 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-Inq.-6]

IMPRESSION FABRIC OF MANMADE FIBER FROM JAPAN

Determination

Correction

In FR Doc. 77-11113 appearing at page 19934 in the issue for Friday, April 15, 1977, in the second line of the footnote at the bottom of the first column, "there is no reasonable indication" should have read "there is not no reasonable indication".

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

LAW ENFORCEMENT/PRIVATE SECURITY RELATIONSHIPS COMMITTEE

Meeting

Notice is hereby given that the Law Enforcement/Private Security Relationships Committee of LEAA's Private Security Advisory Council (PSAC) will meet Thursday and Friday, May 19-20, 1977. The meeting will convene at 9:30 a.m. May 19, in the Club Room of the Ramada Inn Rosslyn, Arlington, Virginia. The meeting is scheduled to adjourn by 1 p.m., May 20.

Discussion at the meeting will focus upon the development of plans and programs for the resolution of areas of conflict between law enforcement and private security. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Mr. William F. Powers, Special Programs Division, Office of Regional Operations, LEAA, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531, 202-376-3550.

JAY A. BROZOST,
Attorney-Advisor.

[FR Doc.77-12451 Filed 4-29-77;8:45 am]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, WESTERN FIFTH CIRCUIT PANEL

Meetings

APRIL 28, 1977.

"The Western Fifth Circuit Panel of the United States Circuit Judge Nominating Commission will meet in Houston, Texas at the United States Court of Appeals for the Fifth Circuit, 11th floor of the Federal Building, 515 Rusk on May 17, 1977 at 10:00 a.m. This meeting is to organize the work of the Panel and to begin the consideration of nominations to be submitted to the President for the judicial vacancy in the Western Fifth Circuit. That part of the meeting concerning the organization and procedures of the Panel will be open to the public, and that part of the meeting considering candidates for nomination and related matters will be closed to the public, all in accord with Pub. L. 92-463; section 10(D) as amended.

The Panel will hold its second meeting in New Orleans, Louisiana at the United States Court of Appeals for the Fifth Circuit, 600 Camp Street on June 3, 1977 at 10:00 a.m. This meeting is to consider candidates for nomination to the judicial vacancy in the Western Fifth Circuit, and it will be closed to the public in accord with Pub. L. 92-463, section 10(D) as amended.

The Panel will hold a third meeting, if necessary, in New Orleans, Louisiana at the United States Court of Appeals for the Fifth Circuit, 600 Camp Street on June 22, 1977 at 10:00 a.m. This meeting is for the further consideration of nominations for the judicial vacancy in the Western Fifth Circuit and the submission of such nomination to the President. It will be closed to the public in accord with Pub. L. 92-463, section 10(D) as amended.

WILLIAM C. HARVIN,
Chairman of the Panel.

[FR Doc.77-12659 Filed 4-29-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-28]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, AVIATION SAFETY AND OPERATING SYSTEMS PANEL

Meeting

The NASA Research and Technology Advisory Council Panel on Aviation Safety and Operating Systems will meet on May 24-26, 1977, at the NASA Ames Research Center, Moffett Field, California 94035. The meeting will be held in the Committee Room of the Administration Building N-200. The meeting will be open to the public on a first-come, first-served basis, up to the seating capacity of the room, which is about 45 persons. All visitors must report to the Receptionist in the Administration Building.

The NASA Research and Technology Advisory Council's Panel on Aviation Safety and Operating Systems serves in an advisory capacity only. The Panel reviews, assesses, critiques, and provides recommendations concerning NASA research and technology thrusts, goals, balance, content, and benefits in areas of Panel responsibility and interest. There are 20 members. The following list sets forth the approved agenda and schedule for the May 24-26, 1977 meeting of the Panel. For further information, please contact the Executive Secretary, Mr. Kenneth E. Hodge, Code RO, NASA Headquarters, Washington, D.C. 20546, area code 202-755-2375.

MAY 24, 1977

TIME AND TOPIC

8 a.m.—Registration of members and visitors.

8:30 a.m.—Chairman's opening remarks and reports. (Purpose: To report on the February 1977 meeting of the Research and Technology Advisory Council (RTAC) and relay to the members the Council's response to this Panel's activity and recommendations.)

9 a.m.—Report of the Executive Secretary. (Purpose: To advise the Panel of recent NASA organizational changes, to review the FY 1978 budget status, and to present candidate new initiatives and program augmentations for FY 1979.)

10 a.m.—Status reports from NASA research centers on research of interest to the Panel. (Purpose: To augment Ames and Langley Research Centers' written reports to the panel with presentations on various research projects related to aircraft safety and operating systems.)

1 p.m.—Review of panel comments on NASA aircraft energy efficiency program. (Purpose: To review chairman's comments to RTAC (council) on the ACEE program and determine whether panel members have other areas of concern, e.g., timing, emphasis, operational considerations, etc., which should be brought to the attention of NASA.)

1:30 p.m.—Report on government wind shear research program. (Purpose: To brief members on the status of research into wind shear and its effects upon aircraft, including related tasks in support of other agencies. Representatives of FAA and NOAA will briefly discuss their wind shear R&D programs.)

3 p.m.—Members reports. (Purpose: To report on non-NASA safety and operating systems research of interest to the Panel.)

5 p.m.—Adjournment.

MAY 25, 1977

8 a.m.—Report of the NASA Aviation Safety Reporting System (ASRS) Advisory Subcommittee. Purpose: To provide a status report on the first year of ASRS operation.

8:30 a.m.—Status of NASA Programs on Human Factors. Purpose: To brief the Panel on agency research on head-up displays, cockpit warning systems, etc.

10:30 a.m.—Report of the NASA Ad Hoc Panel on Terminal Configured Vehicles (TCV). Purpose: To report on member activities and plans for the next (and probably final) meeting.

11 a.m.—Status Reports from NASA Research Centers on Research of Interest to the Panel, concluded. Purpose: To augment Lewis and Dryden Flight Research Centers' written reports to the Panel with presentations on various research projects related to aircraft safety and operating systems.

1 p.m.—Members' Discussion and Development of Panel Recommendations. Purpose: To discuss relevancy, timing, scope, and efficacy of research and programs covered in briefings up to this point and to begin formalizing recommendations and resolutions to be reported to the Council.

3:30 p.m.—Status of NASA Research into Lightning Effects on Aircraft. Purpose: To brief the Panel on the status of the transfer of research into lightning effects on aircraft from Lewis Research Center to Langley Research Center and plans for future R&D efforts.

4 p.m.—Status of Industry Research on Lightning Effects on Aircraft. Purpose: To report on status and future thrusts of research by industry on lightning effects on aircraft and how these efforts relate to NASA and DOD programs.

5 p.m.—Adjournment.

MAY 26, 1977

8 a.m.—Status of Air Force Aviation Safety Research. Purpose: To provide briefings on USAF aviation safety programs of interest to the Panel on such topics as aircraft lightning protection, fire hardening and prevention, and collision avoidance.

10 a.m.—Members' Discussion and Finalization of Recommendations. Purpose: To complete discussions of material presented at the Panel meeting and to provide final recommendations and resolutions to be reported to the Council.

11:30 a.m.—Chairman's Concluding Remarks.

12 Noon—Adjournment.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.77-12472 Filed 4-29-77;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

MEETING

As previously scheduled, 41 FR 12356, the National Commission on Electronic Fund Transfers will meet on Friday, May 13, 1977 at 9:30 a.m. The meeting will be held in the first floor meeting room of the Federal Reserve Bank of Denver, located at 1020 16th Street, Denver, Colorado, and will consist of progress reports and discussions of the Commission's work.

On Thursday, May 12 the Commission will hold a "Public Interchange" meeting at the same location, beginning at 9:30 a.m., to learn the views of consumer representatives, financial representatives and others in the Denver area, on the Commission's recommendations.

The Public Interchange meeting will begin with briefings by several Commissioners on EFT and the recommendations of the Commission, following which the audience and Commissioners will break into smaller groups for a discussion of these issues. Later the groups will reconvene, and each group will report on its conclusions.

While direct invitations have been sent to over 100 persons, primarily consumer representatives to attend and participate in the Public Interchange meeting, any other person wishing to participate in that meeting should contact Dr. John B. Benton at (202) 254-7400. All interested persons are invited to attend both the Public Interchange meeting on May 12, and the meeting of the full Commission on May 13, on a first-call basis to the extent that space permits. Interested persons should contact Ms. Janet Miller at (202) 634-1746 to check on the availability of space.

Dated: April 27, 1977.

JAMES O. HOWARD, Jr.,
General Counsel.

[FR Doc.71-12628 Filed 4-29-77;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on June 2-3, 1977, at the Offices of the National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456. The meetings will commence at 9:00 a.m. daily in Room 4002.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration. The Board will also discuss share insurance and other aspects of the Administration.

A discussion of legislative activities will also be held.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

C. AUSTIN MONTGOMERY,
Administrator.

APRIL 25, 1977.

[FR Doc.77-12518 Filed 4-29-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE ZION GENERATING STATION, UNITS 1 AND 2

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Zion Generating Station, Units 1 and 2 will hold a meeting on May 17, 1977 at the Holiday Inn, 5126 Sixth Avenue, Kenosha, WI 53140 to review the status of the items identified in the ACRS letter on the Zion Generating Station dated June 9, 1976.

The agenda for subject meeting shall be as follows:

Tuesday, May 17, 1977—10:30 a.m. until the conclusion of business.

The Subcommittee, with any of its consultants who may be present, will meet in open Executive Session to exchange opinions and discuss preliminary views and recommendations relating to the above evaluation.

At the conclusion of the Executive Session, the Subcommittee will meet in open session to hear presentations by representatives of the NRC Staff, the Commonwealth Edison Company, and their consultants, and will hold discussions with these groups pertinent to its review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than May 10, 1977, to Mr. Elpidio Igne, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at the meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555, and at the Waukegan Public Library, 128 North County Street, Waukegan, IL 60085.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on May 16, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1920, Attn: Mr. Elpidio Igne) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Elpidio Egne of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection on or after May 24, 1977 at the NRC Public Document Room, 1717 H. St., N.W., Washington, DC 20555, and at the Waukegan Public Library, 128 North County Street, Waukegan, IL 60085.

Copies of the minutes of the meeting will be made available for inspection at the NRC Document Room, 1717 H St., N.W., Washington, DC 20555 after August 17, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: April 27, 1977.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc.77-12560 Filed 4-29-77;8:45 am]

[Docket No. 50-412]

DUQUESNE LIGHT COMPANY, ET AL.

Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-105 issued to the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennylvania Power Company, and the Toledo Edison Company. The amendment reflects a change in the ownership of Beaver Valley Power Station, unit No. 2 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment provides for the deletion of Pennsylvania Power Company as an applicant for all licenses previously requested for the facility and the transfer to Ohio Edison Company of the 6.28 percent ownership interest held by Pennsylvania Power Company in the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment.

For further details with respect to this action, see (1) the application for amendment contained in a letter dated February 28, 1977, (2) Amendment No. 1 to Construction Permit No. CPPR-105, and (3) the Commission's related Safety Evaluation supporting Amendment No. 1 to Construction Permit No. CPPR-105 dated April 13, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Beaver Area Memorial Library, 100 College Avenue, Beaver, Pennsylvania.

A copy of item (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this 19th day of April, 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-12562 Filed 4-29-77;8:45 am]

[Docket No. 50-302]

FLORIDA POWER CORPORATION, ET AL. CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT

Issuance of Amendment to Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc. and the City of Tallahassee for the Crystal River Unit 3 Nuclear Generating Plant located in Citrus County, Florida.

Amendment No. 3 incorporates Appendix B, the Environmental Technical Specifications, which were inadvertently omitted from Amendment No. 2, but which were incorporated in the original license issued on December 3, 1976. Amendment No. 3 also corrects the wording of paragraph 1.H of Amendment No. 2 to include the words which were contained in the original license and which were inadvertently omitted in Amendment No. 2, and corrects the number designation of the isolation valves identified in paragraph 2.C.(4).

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

A copy of Amendment No. 3 to Facility Operating License No. DPR-72 is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the Crystal River Public Library, Crystal River, Florida 32629.

Single copies of Amendment No. 3 may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 24th day of February 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-12348 Filed 4-19-77;8:45 am]

[Docket No. 50-366]

GEORGIA POWER CO. EDWIN I. HATCH NUCLEAR PLANT, UNIT NO. 2

Availability of Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0257) prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Edwin I. Hatch Nuclear Plant Unit No. 2 in Appling County, Georgia is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the Appling County Public Library, Parker Street, Baxley, Georgia. The Draft Statement is also being made available at the Office of Planning and Budget, Room 615B, 270 Washington Street SW., Atlanta, Georgia and the Altahama Area Planning Commission, P.O. Box 328, Baxley, Georgia 31513. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

The Applicant's Environmental Report, as supplemented, submitted by the Georgia Power Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on January 5, 1976 (41 FR 830).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the Draft Environmental Statement. Other interested persons may obtain this document upon request.

Comments from Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Appling County Public Library, Parker Street, Baxley, Georgia. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER. Comments on the Draft Environmental Statement are due by June 20, 1977.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 20th day of April 1977.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc.77-12008 Filed 4-29-77;8:45 am]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station Unit No. 1 (TMI-1) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to: (1) Permit irradiation of TMI-1 reactor vessel material surveillance specimens in the Three Mile Island Nuclear Station, Unit No. 2 reactor vessel; (2) reflect plant operating limitations for the fuel loading to be used during Cycle 3; and (3) update the reactor coolant system pressure limits during system heatup and cooldown.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with Item 1, above, was published in the FEDERAL REGISTER on February 3, 1977 (42 F.R. 6652). No request for a hearing or petition for leave to intervene was filed following notice for this action. Prior public notice of Items 2 and 3, above, was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated October 29, 1976, as supplemented December 29, 1976 and January 20, 1977; January 26, 1977, as supplemented March 31, 1977; and February 23, 1977, (2) Amendment No. 29 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd of April 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-12563 Filed 4-29-77;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. NPF-1 issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is affective March 25, 1977.

The amendment extends, on a one-time basis, the allowable out of service period for one auxiliary feedwater pump from 72 to 144 hours. This extension is applicable for the period commencing at 9:30 a.m., March 27, 1977, and ending at 9:30 a.m., March 30, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this statement will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 25, 1977, (2) Amendment No. 15 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of April 1977.

For the Nuclear Regulatory Commission,

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-12564 Filed 4-29-77;8:45 am]

[Docket No. 50-549]

POWER AUTHORITY OF THE STATE OF NEW YORK (GREENE COUNTY NUCLEAR POWER PLANT

Reconstitution of Board

Frederic J. Coufal, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict, Mr. Coufal is unable to continue his service on this Board.

Accordingly, John F. Wolf, Esq., whose address is 3409 Shepherd Street, Chevy Chase, Maryland 20015, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Maryland, this 25th day of April 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-12349 Filed 4-29-77;8:45 am]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC. (BLACK FOX, UNITS 1 AND 2)

Order Cancelling Prehearing Conference Under 10 CFR 2.752

On April 26, 1977, the Atomic Safety and Licensing Board (the Board) was advised by counsel for the NRC Staff (the Staff) that, because of certain issues that had arisen relating to proposed water contracts with the City of Tulsa, most of the parties[1] were agreeable to an extension in the current schedule which has the evidentiary hearing set to begin on May 24, 1977. Applicants are going to file a request for a continuance with a new agreed-upon schedule, if such agreement can be reached. Counsel advised the Board that the requested continuance would be for about three months.

Further, Staff counsel informed the Board that a stipulation had been reached to grant the request by the Intervenors C.A.S.E. and Ilene Younghein for an additional fifteen (15) days to respond to the Applicants' motion for summary disposition. The Board indicated, therefore, that it would grant that request.

In light of the above developments, Staff counsel suggested and the Board concurred that the prehearing conference set for May 6, 1977 in Tulsa, Oklahoma, should be cancelled. The Board will reset this prehearing conference following Board action with regard to the hearing schedule.

Accordingly, it is hereby ordered, That the prehearing conference under 10 CFR 2.752 which is scheduled for May 6, 1977 in Tulsa, Oklahoma, is hereby cancelled.

It is further ordered, That the motion by the Intervenors C.A.S.E. and Ilene Younghein for a 15-day extension to respond to Applicants' motion for summary disposition is granted and that Intervenors are hereby given up to and including May 5, 1977 to file such a response.

Issued at Bethesda, Maryland, this 27th day of April, 1977.

By order of the Atomic Safety and Licensing Board,

DANIEL M. HEAD,
Chairman.

[FR Doc.77-1256] Filed 4-29-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations, and in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.113, Revision 1, "Estimating Aquatic Dispersion of Effluents from Accidental and Routine Reactor Releases for the Purpose of Implementing Appendix I," describes basic features of calculational models acceptable to the NRC staff for the estimation of aquatic dispersion of both routine and accidental releases of liquid effluents into various types of surface water bodies. It also suggests methods of determining values of parameters for use in the models. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 25th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director Office of Standards Development.

[FR Doc.77-12351 Filed 4-29-77;8:45 am]

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[1] Staff counsel informed the Board that he was unable to reach Intervenors Mrs. Roberta Ann Paris Funnell and Ms. Sherri Ellis in connection with these matters. However, since the matters are procedural in nature and in view of the time limitations the Board considered it necessary to act promptly to cancel the May 6, 1977 prehearing conference and to grant the stipulated extension of time for response to the motion for summary disposition. The Board instructed counsel for the Staff to advise all the parties of his conversation with the Board and stated that this Order would issue.

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.33 "Assumptions Used for Evaluating the Potential Radiological Consequences of Accidental Nuclear Criticality in a Fuel Reprocessing Plant," lists assumptions used to evaluate the magnitude and radiological consequences of a criticality accident in a fuel reprocessing plant. These assumptions are based on previous accident experience, engineering judgment, and analysis of applicable experimental results from safety research programs.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.33 will, however, be particularly useful in evaluating the need for an early revision if received by June 27, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 21st day of April 1977.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-12352 Filed 4-29-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.128, "Installation Design and Installation of Large Lead Storage Batteries for Nuclear Power Plants," describes a method acceptable to the NRC staff for performing the installation design and installation of large lead storage batteries for all types of nuclear power plants. This guide endorses IEEE Standard 484-1975, "IEEE Recommended Practice for Installation Design and Installation of Large Lead Storage Batteries for Generating Stations and Substations."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.128 will, however, be particularly useful in evaluating the need for an early revision if received by June 30, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Docment Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 26th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-12565 Filed 4-29-77;8:45 am]

[Docket No. 50-57]

STATE UNIVERSITY OF NEW YORK AT BUFFALO NUCLEAR SCIENCE AND TECHNOLOGY FACILITY

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. R-77 issued to State University of New York at Buffalo which will revise Technical Specifications for operation of the Nuclear Science and Technology Facility, located in Buffalo, New York.

The amendment would revise the provisions in the Technical Specifications to reflect modifications to the reactor coolant system in accordance with the licensee's application for amendment dated March 14, 1977. The requested plant modifications and technical specification changes would allow (1) alteration of the existing flow path for reactor coolant and (2) a change in design in the core plenum.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By June 1, 1977 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provision of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceedings, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regard the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated March 14, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Public Health Library, Mr. August La Rocca, New York City Department of Health, 125 Worth Street, New York, New York 10013.

Dated at Bethesda, Maryland this 22nd day of April 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-12347 Filed 4-29-77;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. PDR–28, issued to Vermont Yankee Nuclear Power Corporation (the licensee), which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment becomes effective 90 days after its date of issuance.

This amendment revises the provisions in the Technical Specifications relating to the scope of the Vermont Yankee Radiological monitoring program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commissions' rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 15, 1976, and (2) Amendment No. 35 to License No. DPR–28. Both of these items are available for public inspection at the Commissions' Public Document Room, 1717 H Street NW., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 19th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-12350 Filed 4-29-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0125]

DE SOTO CAPITAL CORP.

Issuance of Small Business Investment Company License

On March 16, 1977, a notice was published in the FEDERAL REGISTER (42 FR 14797) stating that an application had been filed by De Soto Capital Corporation, Pine Creek Commercial Plaza, 9991 Old Highway 78—Suite 10, Olive Branch, Mississippi 38654, with the Small Business Administration (SBA), pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)) for a License as a small business investment company (SBIC).

Interested parties were given until the close of business March 31, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04-0125 to De Soto Capital Corporation to operate as an SBIC.

Dated: April 26, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-12532 Filed 4-29-77;8:45 am]

[License No. 01/01-0287]

S.B.I.C. OF VERMONT, INC.

Issuance of a License to Operate as a Small Business Investment Company

On March 2, 1977, a notice was published in the FEDERAL REGISTER that S.B.I.C. of Vermont, Inc., 121 West Street, Rutland, Vermont 05701, had filed an Application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1976)) for a license to operate as a small business investment company.

Interested parties were given until the close of business on March 17, 1977, to submit written comments on the Application to SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0287 on April 25, 1977, to S.B.I.C. of Vermont, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 25, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-12531 Filed 4-29-77;8:45 am]

SIOUX FALLS DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Sioux Falls District Advisory Council will hold a public meeting at 9:30 a.m., Friday, May 20, 1977, at the Downtown Holiday Inn, Sioux Falls, South Dakota, to discuss such business as may be presented by members, staff of the Small Business Administration and others attending. For further information, call or write Chester B. Leedom, District Director, U.S. Small Business Administration, 402 National Bank of South Dakota Building, 8th and Main Avenue, Sioux Falls, South Dakota 57102, 605-336-2980, Extension 231.

Dated: April 26, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-12433 Filed 4-29-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice 538]

CULTURALLY SIGNIFICANT OBJECTS FROM THE UNION OF SOVIET SOCIALIST REPUBLICS

Notice is hereby given of the following determination:

Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985), Executive Order 11312 of October 14, 1966 (31 FR 13415, October 18, 1966) and delegation of authority number 113 of December 23, 1966 (32 FR 58, January 5, 1967), I hereby determine that (1) the three revolvers described in this notice, imported from the Union of Soviet Socialist Republics pursuant to a loan agreement between the Head of the International Department, Ministry of Culture of the USSR, and Mr. Franklin P. Decker on behalf of the Colt Industries Historical Foundation, Inc. for temporary exhibition without profit within the United States are of cultural significance and that (2) the temporary exhibition or display of such revolvers at the Colt Headquarters Museum, 430 Park Avenue, New York, New York, and at the Museum of the Connecticut State Library, 231 Capital Avenue, Hartford, Connecticut, beginning on or about June 1, 1977, for 24 months, is in the national interest.

A description of the objects follows:

(1) 479 (Pl.V). Colt old model army/holster pistol or third model dragoon.

Six-shot revolver. Presentation specimen given to Nicholas I, Emperor of Russia, by Samuel Colt in 1854. Steel parts blued, decorated with engraving and damascened with gold. The grip mounts of gilt bronze enriched with engraving. The barrel signed, "Sam Colt", the frame and cylinder inscribed "Colt's patent". On the cylinder is the U.S. Capitol Building and the inscription "Capitol of the United States". The decorative treatment by Gustav Young. Serial number 12407. L 358/191, C 11.1. U.S.A., Hartford, about 1853. 3.0 No. 73.

(2) 480 (Pl.V). Colt old model navy/belt pistol (Navy belt model 1851). Six-shot revolver. Presentation specimen given to Nicholas I, Emperor of Russia, by Samuel Colt in 1854. Steel parts blued and damascened with gold. The grip mounts of gilt bronze enriched with engraving. The barrel signed "Sam Colt", the frame and cylinder inscribed "Colt's Patent". The decorative treatment by Gustav Young. Serial number 20131. L 333/191, C 9.1 U.S.A., Hartford, about 1853. 3.0 No. 72.

(3) 481. Colt old model pocket pistol (pocket model 1849). Five-shot revolver. Presentation specimen given to Nicholas I, Emperor of Russia, by Samuel Colt in 1854. Steel parts blued, decorated with engraving and damascened with gold. The grip mounts of gilt bronze enriched with engraving. The barrel signed "Samuel Colt", the frame and cylinder inscribed "Colt's Patent". The decorative treatment by Gustav Young. Serial number 63305. L 274/152, C 7.8 U.S.A., Hartford, about 1853. 3.0 No. 4987.

Public notice of this determination is ordered to be published in the FEDERAL REGISTER.

JOSEPH D. DUFFEY,
Assistant Secretary for Educational and Cultural Affairs.

APRIL 26, 1977.

[FR Doc.77-12520 Filed 4-29-77;8:45 am]

[Public Notice CM-7/61]

FINE ARTS COMMITTEE

Meeting

The Fine Arts Committee of the Department of State will hold its Spring meeting on Thursday, May 26, 1977. The meeting of the Finance Committee will be held at 11:15 a.m. in the John Quincy Adams State Drawing Room and the full Committee will meet at 2:15 p.m. the same day also in the John Quincy Adams State Drawing Room.

The agenda for the full Committee will include a summary of the work of the Fine Arts Committee since its last meeting, the announcement of all gifts and loans during the first half of 1977, as well as a discussion of the architectural changes in the Entrance Hall and Lounges of the Diplomatic Reception Rooms. The agenda for the Finance Committee will be a discussion of the present and long term financial needs of the Fine Arts Committee.

The meetings are open to the public. The public may take part in the discussion as long as time permits and at the discretion of the Chairman. Because of State Department security requirements, anyone wishing to attend the meeting should telephone the Fine Arts Office by Monday, May 23, 1977, 202-632-0298 to make arrangements to enter the building.

Dated: April 18, 1977.

CLEMENT E. CONGER,
Chairman,
Fine Arts Committee.

[FR Doc.77-12519 Filed 4-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-080]

NATIONAL OFFSHORE OPERATIONS INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the National Offshore Operations Industry Advisory Committee to be held June 14-15, 1977, at 9 a.m. at the Town and Country Hotel, San Diego, California. The agenda for this meeting is as follows:

1. Discussion of the following items:

a. 1969 Tonnage Convention.
b. Occupational safety and health standards.
c. Commercial diver safety.
d. Overseas operations.
e. Marine firefighting.
f. Tankerman requirements.
g. Mobile drilling unit personnel licensing.
h. Safety survey of offshore oil and mineral vessels—violations.
i. Lifesaving appliance on unmanned platforms.
j. Pressure vessels for human occupancy (PVHO).
k. Carriage of more than 16 industrial personnel aboard offshore supply vessels.

2. Any other business brought before the committee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Captain G. K. Greiner, Jr., Executive Director, National Offshore Operations Industry Advisory Committee, Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590, 202-426-1477. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on April 26, 1977.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

APRIL 25, 1977.

[FR Doc.77-12556 Filed 4-29-77;8:45 am]

Federal Railroad Administration

[RS&I No. 408]

PORT AUTHORITY TRANS HUDSON CORPORATION

Hearing

The Port Authority Trans-Hudson Corporation (PATH) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with the provisions of § 236.51 of the standards concerning the installation of signal systems for railroads (49 CFR Part 236). PATH requested the waiver in order to permit the use of a modified track circuit for its signal system at switch locations.

The Railroad Safety Board (Board) has voted to hold a public hearing before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on June 7, 1977, at the Downtowner Motor Inn, Gateway Center, Newark, New Jersey.

The hearing will be an informal one and will be conducted in accordance with the provisions of § 211.25 of the FRA rules of practice (49 CFR Part 211). A representative designated by the Board will conduct this hearing.

The hearing will not be an adversary proceeding, and consequently, there will be no cross-examination of persons making statements. The Board's representative will make an opening statement outlining the scope of the hearing and will provide interested parties with an opportunity to make statements or rebuttal statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

This notice is issued under the authority of section 25 of the Interstate Commerce Act, 49 U.S.C. 26; and § 1.49(g) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(g).

Issued in Washington, D.C. on April 22, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77-12456 Filed 4-29-77;8:45 am]

RAILROAD SAFETY APPLIANCE STANDARDS

Petitions for Waivers

Notice is hereby given that six railroads and one locomotive manufacturer have submitted requests for permanent waivers of compliance with certain requirements of the Railroad Safety Appliance Standards (49 CFR Part 231). Each of these petitions for waiver involve provisions of the Railroad Safety Appliance Standards that are applicable to locomotives used in road or switching service.

The Federal Railroad Administration (FRA) published a final rule on September 8, 1976 (41 FR 37782) that prescribed configurations for the handholds and uncoupling mechanisms of locomotives used in road service (49 CFR 231.29) and that prescribed configurations for the handholds, uncoupling mechanisms and stairways of locomotives used in switching service (49

CFR 231.30). These regulations are applicable to both existing locomotives and locomotives that will be constructed in the future. Full compliance for the entire locomotive fleet is scheduled for October 1, 1979.

The individual petitions for a waiver of compliance with the certain provisions of this regulation are described below. The description indicates the nature and extent of the relief requested as well as any information that has been submitted in support of the request for the waiver of compliance.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on these petitions since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g. FRA Waiver Petition Docket Number SA-76-2) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before June 10, 1977 will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available for examination during regular business hours, both before and after the closing date for comments, in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C.

Long Island Rail Road

[FRA Waiver Petition Docket No. SA-75-2]

The Long Island (LI) seeks a waiver of compliance with the provisions of §§ 231.29(b) and 231.30(e) that require vertical handholds to begin no more than 32 inches above the safety tread surface of a switching step. LI seeks a waiver of that requirement for its entire fleet of diesel locomotives. That fleet currently consists of approximately seventy (70) locomotives and includes eight (8) locomotives that are permanently assigned to switching service. LI also seeks to have the waiver apply to locomotives that it subsequently acquires.

LI is primarily a passenger commuter railroad and it has built numerous high level passenger station platforms. These high level station platforms require the vertical handhold on a locomotive begin thirty five (35) inches above the switching step in order to permit a locomotive to pass the station without striking the platform.

LI indicates that compliance with this provision would necessitate modification of all of its high level station platforms. That modification work could create a severe hazard for passengers during loading and unloading since it would create a significant gap between the body of a passenger car and the platform. In addition to creating a hazard for passengers the modification work for these stations would cost several million dollars.

LI states that the higher level for the handholds has not presented a safety problem on its current fleet of locomotives which have been operating for many years. Consequently, LI seeks a waiver of compliance with the regulation in order to have the vertical handholds on its locomotives begin thirty five inches above the switching step.

Electro-Motive Division of General Motors Corp.

[FRA Waiver Petition Docket No. SA-76-2]

The Electro-Motive Division of General Motors Corporation (EMD) seeks a waiver of compliance with § 231.29(a) for two locomotives. These two locomotives, which are prototypes for future electric locomotives, are identified as model GM10B and GM6C.

These two locomotives were designed with a staircase arrangement on the front or short hood end and a vertical ladder arrangement on the back or long hood end. The uncoupling mechanism for both ends of these two locomotives does not comply with the provisions of § 231.29(a). EMD states that the design of the platform walkway, the anticlimber and the snowplow configuration make it impractical to alter these units to bring them into conformity with the regulation.

The information submitted by EMD also indicates that the handhold arrangement on the back or long hood end of these units does not comply with the provisions of § 231.29(b). EMD also seeks a waiver of compliance with this provision to the extent that the vertical ladder arrangement or the vertical handholds for that ladder would have to be modified to bring the handholds into conformity with the provision.

In support of its request EMD notes that both units are intended for through freight train operation. The design of both units employs the same uncoupler and handhold configurations used on several hundred models designated SDP40T-2 andSD45T-2 without creating any safety hazard that EMD knows about. Furthermore, one of these units, the prototype GM6c model, was placed in service prior to the FRA proposal to adopt such a regulation while the other unit, the GM10B model, was in such an advanced state of construction that it was not practical to alter the design in order to comply with the regulation.

Iowa Terminal Railroad Co.

[FRA Waiver Petition Docket No. SA-77-1]

The Iowa Terminal Railroad (IT) seeks a complete waiver of compliance with § 231.30 for five locomotives. These five locomotives are small electric locomotives that were built before 1928.

The five locomotives are operated in the vicinity of Mason City, Iowa in both road and switching service since they comprise the entire locomotive fleet of the Mason City division of the IT. These units are equipped with footboards and vertical side steps on both ends instead of the switching step and vertical handholds required by the regulation. Furthermore, the uncoupling lever cannot be operated from the side step as required by regulation.

The design of these units, which includes a solid cast front end, makes it impossible in the judgment of IT to modify these locomotives so that they comply with the regulation. IT has also provided affidavits from train crew members indicating their belief that the use of these locomotives without modification will not present a safety hazard for them.

Santa Maria Valley Railroad Co.

[FRA Waiver Petition Docket No. SA-77-2]

The Santa Maria Valley Railroad (SMV) seeks a complete waiver of compliance with § 231.30 for one diesel locomotive. The locomotive is a 70 ton unit built by General Electric in 1959 and bears SMV designation number 60.

The SMV operates this unit and seven other locomotives over a fifteen mile system in the State of California. SMV indicates that the other seven units will be brought into compliance but that locomotive number 60 cannot be modified to comply with the regulation without creating an unsafe condition.

SMV states that this unit was designed for industrial or export use and consequently the sandboxes were placed directly behind the steps. The location of the sandboxes, the side walkways and end platforms of this unit were designed so that it is now impossible to modify this unit. SMV states that it will use this locomotive only as a helper unit if this waiver is granted.

Louisville & Nashville Railroad

[FRA Waiver Petition Docket No. SA-77-3]

The Louisville & Nashville Railroad (L&N) seeks a waiver of compliance with § 231.29 for four diesel locomotives. These locomotives are designated as Electro-Motive Division models SDP-35 and bear L&N locomotive numbers 1221, 1222, 1223 and 1224.

These locomotives were designed with a staircase arrangement on the front or short hood end and a vertical ladder arrangement on the back or long hood end. The vertical ladder arrangement apparently was designed to accommodate the passenger train heating equipment that was originally installed on these locomotive units. The current uncoupling mechanism and the vertical handhold configuration do not comply with the regulation and due to the nature of the construction of these units L&N believes that it will require a major task to modify these units so that they can be used in road service. Consequently, L&N is seeking a permanent waiver of compliance for back or long hood ends of these units.

Springfield Terminal Railway Co.

[FRA Waiver Petition Docket No. SA-77-4]

The Springfield Terminal Railway (ST) seeks a waiver of compliance with § 231.30 for one diesel locomotive. This single locomotive is a 44-ton locomotive build by General Electric.

This single locomotive is used to perform switching in the vicinity of Springfield, Vermont and is the only locomotive owned by the ST. The footboards will be removed from this unit but ST believes that any modification of the step arrangement will seriously weaken the main frame and interfere with the necessary minimum truck clearance.

The current configuration for the steps, vertical handholds and uncoupling mechanism do not conform to the requirements of the regulation. ST seeks this waiver to permit the locomotive to continue operating without modification of the unit other than the removal of the footboards.

MAINE CENTRAL RAILROAD CO.

[FRA Waiver Petition Docket No. SA-77-5]

The Maine Central Railroad (MEC) seeks a waiver of compliance with § 231.30 for two diesel locomotives. These two locomotives are 44-ton units built by General Electric and bear MEC designation numbers 14 and 16.

The locomotives are only used for switching service on the line known as the Eastport Branch in the State of Maine. MEC indicates that operational limitations prevent the use of any other locomotives on this line. The modifications of these units to bring them into compliance with the regulation would prevent the use of these locomotives on this line since there are very close clearances.

These locomotives currently have uncoupling mechanisms, steps and vertical handhold configurations that do not comply with the regulation. MEC plans to retire these locomotives as soon as it received Interstate Commerce Commission authority to abandon the Eastport Branch.

This notice is issued under the authority of sections 4, 6 and 12, 27 Stat. 531, as amended, sections 6 (e) and (F), 80 Stat. 939; 45 U.S.C. 4, 6, 12; 49 U.S.C. 1655 and § 1.49(c) of the regulations of the Secretary of Transportation, 49 CFR 1.49(c).

Issued in Washington, D.C. on April 22, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77-12457 Filed 4-29-77;8:45 am]

National Highway Traffic Safety Administration

AMBASSADOR LEATHER PRODUCTS CHILD SAFETY HARNESS

Public Proceeding Scheduled

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966, as amneded (15 U.S.C. 1412), the Associate Administrator, Motor Vehicle Programs, has made an initial determination that a noncompliance with Federal Motor Vehicle Safety Standard No. 209 (49 CFR 571.209) exists with respect to the Child's Auto Safety Strap Model B-1000, also known as the All Purpose Child's Safety Harness Strap Model H-1000, and the Children's Auto Safety Strap Model 3000, manufactured by Ambassador Leather Products, Inc. of Brooklyn, New York.

A public proceeding will be held at 10 a.m., June 1, 1977, in Room 5332, Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590, at which Ambassador will be afforded an opportunity to present data, views and arguments to establish that there is no failure to comply.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Gail Willis, Office of Standards Enforcement, National Highway Traffic Safety Administration, Room 3222, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20590, telephone 202-426-2832, before close of business on May 27, 1977.

The agency's investigation file in this matter is available for public inspection during working hours, 7:45 a.m. to 4:15 p.m., in the Technical Reference Library, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on March 18, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-12271 Filed 4-29-77;8:45 am]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held May 17 and 18, 1977 at the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C.

The agenda for this meeting is as follows:

On May 17 at 8:30 a.m. the Highway Environment Subcommittee will meet in room 6244 to hear a briefing on all FHWA Certification-Acceptance Programs and will discuss old and new business.

At 9:30 a.m. on May 17 in room 2230 the Adjudication and Alcohol Subcommittee will meet to hear briefings on current developments in judicial education and on the status of drunk driving warning systems-field research and will discuss old and new business.

On May 17 at 1:00 p.m. in room 2230 the Driver Subcommittee will meet to hear a briefing on NHTSA activities in the youth area—ages 16 to 24, a status report on 55 MPH Program and to discuss old and new business.

On May 18 at 8:30 a.m. in room 6244 the Vehicle Subcommittee will meet to review films on advanced rider techniques, to hear briefing on helmet construction, standards and effectiveness and a status report on comprehensive study of motorized bicycle accidents, injuries and operational problems in America and in Europe, and to discuss old and new business.

On May 18 at 10:45 a.m. in room 2230 the full Committee will meet to hear briefing on various automatic highway monitoring devices, a status report on the 402-403 Highway Safety Program reappraisals, reports from Subcommittee Chairmen: Adjudication and Alcohol Subcommittee, Truck and Bus Safety Subcommittee, Highway Environment Subcommittee, Driver Subcommittee, and Vehicle Subcommittee. There will also be discussion of draft Committee Bylaws, the swearing in of new members and old and new business.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the Secretary of Transportation.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on April 27, 1977.

WM. H. MARSH,
Executive Secretary.

[FR Doc.77-12539 Filed 4-29-77;8:45 am]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 11 a.m., May 16, 1977, Room 814, at 800 Independence Avenue SW., Washington, D.C. 20591. The agenda for this meeting is as follows: Opening remarks; approval of minutes; administrator's report; review of responses to request for comments on Canadian toll proposal; closing remarks.

Attendance is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than May 13, 1977, and information may be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue SW., Washington, D.C. 20591; 202-426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued in Washington, D.C. on April 26, 1977.

D. W. Oberlin,
Administrator.

[FR Doc.77-12473 Filed 4-29-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

BICYCLES FROM THE REPUBLIC OF CHINA

Final Countervailing Duty Termination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Final negative determination.

SUMMARY: This notice is to advise the public that it has been determined that the Government of the Republic of China (Taiwan) has not given benefits which are considered to be bounties or grants on the manufacture, production or exportation of bicycles within the meaning of the U.S. countervailing duty law.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Rimlinger, Duty Assessment Division, Technical Branch, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On October 27, 1976, a "Notice of Preliminary Countervailing Duty Determination" was published in the Federal Register (41 FR 47084) announcing that on the basis of an investigation conducted pursuant to § 159.47(c), Customs Regulations (19 CFR 159.47(c)), it preliminarily had been determined that certain practices of the Government of the Republic of China constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). These practices are:

1. Loans at preferential rates of interest for the purchase of equipment by bicycle manufacturers and short-term exporting financing.
2. Exemption from income taxes, deed taxes and customs duties on imported capital items for firms located in Export Processing Zones.
3. Income tax holidays for newly established firms granted under the Statute for Encouragement of Investment.

Nine practices were preliminarily determined not to constitute a bounty or grant, and four other measures were preliminarily determined to be not applicable or have never been utilized by the bicycle industry.

The notice stated further that before a final determination would be made in the proceeding, consideration would be given to any relevant data, views, or arguments submitted in writing within 30 days from the date of the notice with respect to the preliminary determination.

After consideration of all information received, and on the basis of information received since the preliminary determination, it is determined that the bicycle industry of the Republic of China is not receiving benefits from income tax holidays under the Statute for Encouragement of Investment, nor from available incentives, by reason of location in an Export Processing Zone. It is further determined that in the fiscal year ending June 30, 1976, the total benefit received by the bicycle industry (0.01 percent ad valorem) from loans at preferential rates of interest is de minimis in relationship to the value of merchandise estimated to be exported during that period. All other practices noted in the preliminary countervailing duty determination are determined not applicable or not utilized by the bicycle industry, or not to constitute a bounty or grant. The Customs Court, in *Zenith Radio Corporation* v. *United States*, C.D. 4691, ruled that the rebate of the Japanese commodity tax on exportation is a bounty or grant within the meaning of section 303 of the Act. To the extent that the ruling in that case is applicable here, the Department, in the absence of a final court decision to the contrary, maintains its position that the rebate or remission upon exportation of indirect taxes directly related to the exported product does not constitute a bounty or grant.

Accordingly, for the reasons stated above, it is hereby determined that no bounties or grants are being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production, or exportation of bicycles from the Republic of China.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Peter O. Suchman,
Acting Assistant Secretary
of the Treasury.

April 19, 1977.

[FR Doc.77-12440 Filed 4-29-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 380]

ASSIGNMENT OF HEARINGS

April 27, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-8917, *Dignan Trucking, Inc., et al* v *Southern Maryland Transportation Co., Inc.*, now assigned continued hearing April 28, 1977 at Washington, D.C., has been postponed to June 21, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 1074 Sub 16, Allegheny Freight Lines, Inc. now assigned May 9, 1977 at Charleston, West Virginia is cancelled.

MC 136669 (Sub-No. 10), Processed Beef Express, Inc., now being assigned for continued hearing on May 24, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119789 (Sub-No. 290), Caravan Refrigerated Cargo, Inc., now assigned May 4, 1977, at Tampa, Fla. will be held in Room 412, Federal Building, 500 Zack Street.

MC 120472 (Sub-No. 2), Gollot & Sons Transfer & Storage, Inc., now assigned May 9, 1977, at Biloxi, Miss. will be held in the Grand Jury Room, District Courthouse, on the Corner of Washington & Lameuse St.

MC 113855 (Sub-358), International Transport, Inc., now being assigned June 9, 1977 (2 days) at Minneapolis, Minnesota, in a hearing room to be later designated.

MC 118202 Sub 60, Schultz Transit, Inc. now assigned June 9, 1977 at Minneapolis, Minnesota is cancelled.

Robert L. Oswald,
Secretary.

[FR Doc.77-12503 Filed 4-29-77;8:45 am]

[No. 36375]

BUNGE CORP., ET AL.

Petition for Declaratory Order, Tariff Interpretation

ORDER

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 2, Acting as an Appellate Division, held at its office in Washington, D.C., on the 19th day of April, 1977.

Upon consideration of the record in the above-entitled proceeding, including the order served on January 4, 1977; the petition to reopen the proceeding, filed by the Atchison, Topeka and Santa Fe Railway Company, on January 24, 1977; the separate petitions (1) for leave to intervene and (2) to reopen the proceeding, filed by Archer Daniels Midland Company, on January 24, 1977; the petition for reconsideration and to reopen the proceeding for receipt of additional evidence, filed jointly by Bunge Corporation, C-G-F Grain Company, Inc., Garvey Elevators, Inc., Garvey International, Inc., and Koppel, Inc., on January 24, 1977; the replies filed by replicant Southern Pacific Transportation Company, to the petition of the Atchison, Topeka and Santa Fe Railway Company, on January 31, 1977, and to the remaining petitions on February 14, 1977;

It appearing, That by order served in this proceeding on January 4, 1977, Division 2 granted the petition for a declaratory order filed jointly by Bunge Corporation, Koppel, Inc., C-G-F Grain Company, Inc., Garvey Elevators, Inc., and Garvey International, Inc., and found the proper interpretation of the subject tariff matter was that stated by replicant Southern Pacific Transportation Company;

It further appearing, That petitioners have established good cause for reopening this proceeding;

It further appearing, That the Archer Daniels Midland Company has an interest in the matters at issue in this proceeding;

And it further appearing, That the issue presented in this proceeding is whether Trans-Continental Tariff Bureau, Agent, Tariff 45-N, ICC 1850, Part 5 Item 3295 series, provides a specific through route and rate which supersedes the provisions providing for gateway restrictions in General Routing Guide, TCFB Tariff 5-B, ICC 1674;

Wherefore, and good cause appearing therefor:

It is ordered, That the petitions for reconsideration and reopening be, and they are hereby, granted, and that this proceeding be, and it is hereby, reopened for handling, on a de novo basis, under the modified procedure;

It is further ordered, That petitioner, Archer Daniels Midland Company be, and it is hereby, made a party to this proceeding; that all other persons desiring to participate shall make such fact known by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C., 20423, on or before May 23, 1977 and that as soon as practicable thereafter, the Commission will add to the list of names and addresses any such additional persons upon whom service of an opening and reply statement shall be made.

It is further ordered, That a service list of all additional parties indicating a desire to participate herein be promptly served upon all parties of record.

It is further ordered, That all parties hereto should comply with rules 45 to 54 inclusive, of the Commission's General Rules of Practice, and the filing and service of pleadings [1] is to be as follows:

(a) Opening statement of facts and arguments by the original petitioners and parties in support are due 50 days after publication of this in the FEDERAL REGISTER;

(b) 30 days after that date, statement of facts are due by original replicants and parties in support thereof; and

(c) Replies are due 20 days thereafter.

It is further ordered, That a copy of this order be served upon all parties hereto including those persons who requested to be advised of Commission actions herein, that a copy be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and that notice of this order be given to the public by delivery of a copy hereof to the Director, Office of the Federal Register for publication therein.

And it is further ordered, That the prior order served January 4, 1977, in the instant proceeding, to the extent it is inconsistent with our actions herein be, and it is hereby, vacated.

By the Commission, Division 2, acting as an Appellate Division, Commissioners Harin, Clapp, and Christian.

ROBERT L. OSWALD,
Secretary.

APPENDIX

Norman Walker, General Traffic Manager, Bunge Corporation, 300 Southwest Blvd., Kansas City, Kansas 66103.
H. A. Woodbury, General Manager Transportation, Koppel, Inc., P.O. Box 747, Salina, Kansas 67401.
C-G-F Grain Company, Inc., 2015 George Blvd., Topeka, Kansas 66604.
Garvey Elevators, Inc., 816 Wiley Building, Hutchinson, Kansas 67501.
Garvey International, Inc., 5755 West 55th Street, South, Wichita, Kansas 67202.
Charles W. Burkett, John MacDonald Smith, Attorneys for Southern Pacific Transportation Company, One Market Plaza, SP Bldg., San Francisco, Calif. 94105.
Atchison, Topeka & Santa Fe Railway Co., 80 East Jackson Blvd., Chicago, Illinois 60604.
Burlington Northern, 176 East 5th Street, St. Paul, Minnesota 55101.
Archer Daniels Midland Company, 4666 Faries Parkway, P.O. Box 1470, Decatur, Illinois 62525.

[FR Doc.77-12506 Filed 4-29-77;8:45 am]

[AB 19 (Sub-No. 34)]

PITTSBURG & WESTERN RAILROAD CO. AND BALTIMORE & OHIO RAILROAD CO.

Abandonment Near Parkers Landing and Mt. Jewett in Armstrong, Clarion, Forest, Elk and McKean Counties, Pa.

APRIL 22, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Pittsburg and Western Railroad Company and The Baltimore and Ohio Railroad Company of 96.69 miles of branch line in Armstrong, Clarion, Forest, Elk, and McKean Counties, Pa., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that diversion of rail traffic to motor carrier would consume slightly more fuel and produce minimal changes in ambient environmental conditions along the affected corridor. No threatened or endangered species would be impacted by the proposed action and no historic structures are found within or adjacent to the subject line. Because no definitive economic development plans have been found with a dependency on continued rail service and alternate rail service in the area is available to existing industries, approval of the abandonment should not seriously adversely affect community and rural development. Finally, while the highways of the tributary area are antiquated and slow, they are reported to be in suitable physical condition to accept the additional truck traffic that would result from the diversion of rail traffic to motor carrier.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423, telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before June 6, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12502 Filed 4-29-77;8:45 am]

STATISTICS OF CLASS II MOTOR CARRIERS OF PROPERTY

Availability of Selected Items

APRIL 27, 1977.

The third release of Transport Statistics in the United States, Part 2—Motor (Formerly designated Part 7), containing detailed statistics for Class II motor carriers of property will no longer be published by the Commission. Effective with data for calendar year 1974, the third release will be replaced by a condensed publication, Selected Statistics of Class II Motor Carriers of Property, which will include basic financial and statistical items related to operations of these carriers, such as, number of carriers, total operating revenues, total operating expenses, income taxes, extraordinary and prior period items, average number of employees, revenue equipment and revenue tons.

The change will enable the Commission to publish basic data for Class II motor carriers of property on a more timely basis.

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[1] Any party may rely on verified statements previously submitted or provide verification thereof. Parties relying on such statements must notify the Commission and serve copies on additional parties within the filing schedule outlined herein.

The first issue of the new publication is expected to be available for public distribution at the Commission in six to eight weeks. Requests should be addressed to Publications, Room 1333, Interstate Commerce Commission, Washington, D.C. 20423.

JOHN A. GRADY,
Director, Bureau of Accounts.

[FR Doc.77-12505 Filed 4-29-77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notices

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before May 23, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-7-77 (Special Certificate—Waste Products), filed March 23, 1977. Applicant: SCHNEIDER TANK LINES, INC., 200 W. Cecil St., Neenah, Wis. 54956. Applicant's representative: Wayne Downing, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *recyclable organic chemicals, chrome plating solutions, and recyclable solvents*, in bulk, between points in the United States (except Alaska and Hawaii), in furtherance of a recognized pollution control program sponsored by Hydrite Chemical Company, located at Milwaukee, Wis., for the purpose of transporting recyclable organic chemicals, chrome plating solutions and recyclable solvents for reuse.

P-8-77 (Special Certificate—Waste Products), filed April 1, 1977. Applicant: CHEMICAL WASTE MANAGEMENT, INC., P.O. Box 214, Calumet City, Illinois 60409. Applicant's representative: William H. Towle, 180 North LaSalle Street, Suite 3520, Chicago, Illinois 60601. Authority sought to operate pursuant to a Certificate of Public Convenience and Necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste and recyclable chemicals and petroleum products*, between points in Illinois, Wisconsin, Minnesota, Iowa, Indiana, Michigan, Missouri, Kansas and South Dakota, in furtherance of recognized pollution control programs sponsored by: (1) Waste Research and Reclamation Co., Inc.; (2) Motor Oils Refining Company; and (3) Chemical Waste Management, Inc., for the purpose of collecting such waste chemicals for recycling.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12504 Filed 4-29-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m., May 3, 1977.

PLACE: 2033 K Street NW., Washington, D.C. 5th Floor Hearing Room.

STATUS: Open

MATTERS TO BE CONSIDERED:

1. Contract Terms and Conditions—Location and Quality Price Differentials.
2. Changes in the Commission's Large Trader Reporting System.
3. FEDERAL REGISTER release re: Revised Registration Forms.
4. Continuation of Planning and Zero-Base Budgeting.
5. Requests for exemptions—Palmer Trading Co., International Trading Group Ltd., National Association of Commodity Option Dealers.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, (254-6126).

[S-289-77 Filed 4-27-77;3:39 pm]

2

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: 9:30 a.m., May 4, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Application for Merger, Cancellation of Membership and Insurance, and Maintenance of Branch Office, Bell Federal Savings and Loan Asscociation, Chicago, Illinois (Survivor), Highland Park Federal Savings and Loan Association, Highland Park, Illinois (Disappearing Association).

Agency Office Application, Security Federal Savings and Loan Association of Nashville, Nashville, Tennessee.

Concurrent consideration of two branch office applications, 1. Union Federal Savings and Loan Association, Los Angeles, California, 2. Republic Federal Savings and Loan Association, Pasadena, California.

No. 19, April 27, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S-291-77 Filed 4-27-77;3:39 pm]

3

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., on May 4, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Designation of supervisory agent under §§ 501.10 and 501.11 of the general regulations and under § 583.5 of the Holding Company regulations.

No. 20, April 27, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S-292-77 Filed 4-27-77;3:39 pm]

4

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: May 6, 1977, 2:30 p.m.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement No. 8100-9: Modification of the Thailand/U.S. Atlantic and Gulf Conference Agreement—Extension of Exclusive Agency Provision.
2. Agreement No. 9989-6, modification of the North Atlantic Discussion Agreement to extend it beyond its present expiration date.
3. Agreement No. 10253, Israel/South Atlantic-Gulf Rate Agreement.
4. Petition of Matson Navigation Company for Rulemaking Concerning Capitalization of Cost of Funds During Construction.
5. Docket No. 75-53—*Refrigerated Express Lines (A/Asia) Pty., Ltd., et al.* v. *Columbus Line, Inc., et al.*—Possible Past Violations.

Portions closed to the public:

1. Docket No. 76-2—*Borden Interamerica Inc.* v. *Venezuelan Line.*
2. Docket No. 76-43—Matson Navigation Company—Proposed Rate Increases in the United States Pacific Coast/Hawaii Domestic Offshore Trade—Appeal of ALJ Ruling on Scope of Proceeding.
(202-523-5727).

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-298-77 Filed 4-28;10:07 am]

5

AGENCY HOLDING THE MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER on April 20, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., April 27, 1977.

CHANGES IN THE MEETING: Addition of G-14, Docket No. CP77-221, Transcontinental Gas Pipe Line Corporation, Addition of G-15, Docket No. CP76-492, National Fuel Gas Supply Corporation.

KENNETH F. PLUMB,
Secretary.

[S-295-77 Filed 4-27-77;3:39 pm]

6

AGENCY HOLDING THE MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER on April 20, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., April 27, 1977.

CHANGES IN THE MEETING: Addition of P-1, Docket No. ES77-24, Pacific Power & Light Company.

KENNETH F. PLUMB,
Secretary.

[S-296-77 Filed 4-27-77;3:39 pm]

7

AGENCY HOLDING THE MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER on April 26, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m. May 3, 1977.

CHANGES IN THE MEETING: The following items have been added to the agenda upon the affirmative vote of

Chairman Dunham, Commissioners Smith, Holloman and Watt.

P-7—Docket No. E-9578, Texas Power and Light Co.
P-8—Docket No. ER76-848, Montana Power Co.

KENNETH F. PLUMB,
Secretary.

[S-297-77 Filed 4-27-77;3:59 pm]

8

AGENCY HOLDING THE MEETING: Federal Power Commission.

TIME AND DATE: 2 p.m., May 4, 1977.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda). NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, (202-275-4166).

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

GAS AGENDA 7591ST MEETING—MAY 4, 1977 REGULAR MEETING—PART I (2 P.M.)

G-1—Docket No. RP75-73, Texas Eastern Transmission Corporation.
G-2—Docket Nos. CP74-289, CP73-334 and CP75-360, El Paso Natural Gas Company.
G-3—Docket No. RP76-38, *Arizona Electric Power Cooperative, Inc., and the City of Willcox, Arizona,* v. *El Paso Natural Gas Company.*
G-4—Docket No. RP75-62, Cities Service Gas Company.
G-5—Docket No. RP76-86. *General Motors Corporation* v. *Natural Gas Pipeline Company of America.*
G-6—Dockets Nos. RP71-29, et al., (Phase II), United Gas Pipe Line Company.
G-7—Docket No. RP74-24, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
G-8—Docket Nos. RP71-119 and RP74-31-1, et al., Panhandle Eastern Pipe Line Company.
G-9—Docket No. RP71-131, Algonquin Gas Transmission Company.
G-10—FPC Gas Rate Schedule No. 1, Alfred J. Smith.
G-11—Docket No. CI75-45, et al., Tenneco Oil Company.
G-12—Docket Nos. CI77-95, CI77-96 and CI77-97, Gulf Oil Corporation.
G-13—Docket No. CP76-511, Natural Gas Pipe Line Company of America. Docket No. CP77-106, Mississippi River Transmission Corporation. Docket No. CP77-131, Natural Gas Pipe Line Company of America.
G-14—Docket No. CP77-322, United Gas Pipe Line Company, and Southern Natural Gas Company.
G-15—Docket No. CP77-295, Texas Eastern Transmission Corporation.

GAS AGENDA
7591ST MEETING—MAY 4, 1977
REGULAR MEETING—PART II

CG-1—Docket No. RP73-8 (PGA No. 77-8). North Penn Gas Company.
CG-2—Ashland Oil, Inc., FPC Gas Rate Schedule No. 111. CIG Exploration, Inc., FPC Gas Rate Schedule No. 1. Colorado Oil and Gas Corporation, FPC Gas Rate Schedule No. 25. Union Oil Company of California, FPC Gas Rate Schedule No. 169. Pan Eastern Exploration Company, FPC Gas Rate Schedule No. 1. Pan Eastern Exploration Company, FPC Gas Rate Schedule No. 5. Chevron Oil Company, Western Division, FPC Gas Rate Schedule No. 6.
CG-3—Docket Nos. CI77-46, CI77-47, CI77-48 and CI77-122, Exxon Corporation. Docket Nos. CP77-8 and CP77-42, Columbia Gulf Transmission Company.
CG-4—Docket No. CI77-313, Exxon Corporation.
CG-5—Docket No. CI76-516, et al., Bill J. Graham, et al.
CG-6—Docket Nos. CS72-1059, et al., (CS66-85), Miles Kimball Company, et al.
CG-7—Docket Nos. CS71-12, et al., MGF Operating Corporation, et al.
CG-8—Docket No. CP77-277, Northern Natural Gas Company.
CG-9—Docket No. CP77-190, Natural Gas Pipeline Company of America. Docket No. CP77-235, Colorado Interstate Gas Company.
CG-10—Docket No. CP70-239, Kansas-Nebraska Natural Gas Company, Inc. Docket No. CP70-258, Cities Service Gas Company. Docket No. CP76-415, Cities Service Gas Company. Docket No. CP76-422, Colorado Interstate Gas Company.
CG-11—Docket No. CP77-110, United Gas Pipe Line Company.
CG-12—Docket No. CP77-74, Colorado Interstate Gas Company. Docket No. CP77-120, Natural Gas Pipeline Company of America.
CG-13—Docket No. CP73-332. Northwest Pipeline Corporation.
CG-14—Docket No. CP77-250, Panhandle Eastern Pipeline Company.
CG-15—Docket No. CP77-145, Columbia Gas Transmission Corporation.
CG-16—Docket No. CP77-201, Consolidated Gas Supply Corporation.
CG-17—*State of North Carolina, et al.* v. *F.P.C.,* D.C. Cir. No. 76-2102. *Austral Oil Co.* v. *F.P.C.,* 5th Cir. No. 76-3647.
CG-18—*Gilliring Oil Company* v. *F.P.C.,* 5th Cir. No. 77-1664.
CG-19—(A) Docket No. G-2712, et al., Cities Service Oil Company, (Operator), et al.
(B) Docket No. RI76-157, Bridwell Oil Company. Docket No. RI76-158, W. M. Laughlin. Docket No. RI76-159, Manler Oil Company. Docket No. RI76-161, William Perlman.
(C) Docket Nos. CP76-14, et al., Natural Gas Pipeline Company of America, et al.
(D) Docket No. G-3072, et al., Humble Oil & Refining Company.
(E) Docket No. CI75-525, Amoco Production Company (Operator), et al. Docket No. CI76-546, Skelly Oil Company. Docket No. CI77-160, Phillips Petroleum Company.

KENNETH F. PLUMB,
Secretary.

[S-296-77 Filed 4-27-77;3:39 pm]

9

AGENCY HOLDING THE MEETING: Federal Reserve System

On Monday, May 2, 1977, at 10:00 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue, N.W., Washington, D.C., to consider the following items of official Board business:

1. Draft testimony to be presented before the Subcommittee on Employee Ethics and Utilization of the House Committee on Post Office and Civil Service, regarding H.R. 2387, a bill to increase the compensation of the Chairman and members of the Federal Reserve Board and of the Director and Deputy Director of the Office of Management and Budget.

2. Any agenda items carried forward from a previously announced closed meeting.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was possible.

This meeting will be closed to public observation because all the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. § 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202-452-3204).

Board of Governors of the Federal Reserve System.

APRIL 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-299-77 Filed 4-28-77;11:26 am]

10

AGENCY HOLDING THE MEETING: National Mediation Board.

TIME AND DATE: Monday, May 9, 1977, 2:00 p.m.

PLACE: Board Hearing Room, 1425 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Jurisdictional determination re Air Florida, Inc., 2. Jurisdictional determination re Vecellio and Grogan, Inc., 3. Request for public hearing in NMB Case No. R-4549, Trans World Airlines, Inc. 4. Request for public hearing in NMB Case No. R-4725, Allegheny Airlines, Inc. 5. Pending application in NMB Case No. R-4714, Milwaukee, St. Paul and Pacific Railroad Company. 6. Scheduling of future Board meetings.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Rowland K. Quinn, Jr., Executive Secretary, 202-523-5920.

Date of notice: April 27, 1977.

[S-294-77 Filed 4-27-77;3:39 pm]

11

AGENCY HOLDING THE MEETING: National Mediation Board.

TIME AND DATE: Tuesday, May 17, 1977, 10:00 a.m.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Oral Argument, NMB Case No. R-4448, Continental Air Lines, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, 202-532-5920.

Date of notice, April 27, 1977.

[S-293-77 Filed 4-27-77;3:39 pm]

12

AGENCY HOLDING THE MEETING: National Commission on Libraries and Information Science.

TIME: 9 a.m. to 5 p.m. and 8:30 a.m. to 12 noon, respectively.

DATE: June 1 and June 3, 1977.

PLACE: Waldorf Astoria Hotel, New York, New York.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of Activities Since February 18-19 meeting; White House Conference on Library and Information Services; Status Project Reports; Commissioners' Comments; Executive Director's Report; Old Business; New Business.

CONTACT PERSON FOR MORE INFORMATION:

Alphonse F. Trezza, Executive Director, NCLIS, 1717 K St., N.W. (Suite 601), Washington, D.C. 20036.

ALPHONSE F. TREZZA

[S-302-77 Filed 4-28-77;4:00 pm]

13

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 2:00 p.m., Tuesday, May 3, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: The first part of this meeting will be open to public. Following the open portion of the meeting there will be an intermission and the rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to Public: (1) Consideration of participation by Miles W. Kirkpatrick, Caswell O. Hobbs III and law firm of Morgan, Lewis & Bockius in Mobile Home Trade Regulation Rule Proceeding, File No. R511022. (2) Report from General Counsel on Congressional Matters Portions closed to Public:

Nonadjudicative Matters—(1) Approval of minutes of Nonadjudicative Matters Considered at Meeting of April 26, 1977, (2) Consideration of Issuance of Proposed Complaint in a (Nonpublic) Part II Matter; (3) Consideration of Disposition of (Nonpublic Part II Matter; (4) Consideration of (Nonpublic) Part II Matter; (5) Consideration of Proposed Disposition of Compliance Investigation In the Matter of Atlantic Industries, Inc., at al Docket No. 8941; (6) Consideration of Proposed Resolution Authorizing Compulsory Process in a (nonpublic) Part II Matter.

Adjudicative Matters Under Part 3 of the Rules of Practice: (1) Approval of Minutes of Adjudicative Matters Considered at Meeting of April 26, 1977; (2) Consideration of Disposition of Respondents' Appeal from the Initial Decision in Docket No. 9063, Providence Washington Insurance Co., et al.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message, 202-523-3806.

[S-303-77 Filed 4-28-77;4:05 pm]

14

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 2:00 p.m., Thursday, May 5, 1977.

PLACE: Room 532 (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to Public: (1) Oral argument in National Housewares, Inc., et al., Docket No. 8733, and Emdeko International, Inc., et al., Docket No. 8973; Portions closed to the Public: (1) Executive Session for Consideration of Disposition in National Housewares, Inc., et al., Docket No. 8733, and Emdeko International, Inc., et al, Docket No. 8973.

CONTACT PERSON FOR MORE INFORMATION: Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message, 202-523-3806.

[S-304-77 Filed 4-28-77;4:05 pm]

15

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Approximately 10:30 a.m. (following the open meeting), Thursday, May 5, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No. and Subject

Hearing—1—Motion to consolidate a transfer of control application with the WNAC-TV, Boston, Massachusetts, comparative renewal proceeding, together with two motions to strike pleadings (Docket Nos. 18759-18761).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: April 28, 1977.

[S-305-77 Filed 4-28-77;4:09 pm]

16

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Thursday, May 5, 1977.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

General—1—Equipment Authorization for equipment sold in kit form (RM-1093, RM-1164).

Renewal—1—Staff EEO inquiry of stations with renewal termination date of October 1, 1976.

Television—1—Application (BPTT-2487) of Blonder-Tongue Broadcasting Corporation for Construction Permit for new 1,000-watt UHF translator on World Trade Center Building, New York City.

Complaints and Compliance—1—Application for Review filed by Anthony Martin-Trigona, of the Broadcast Bureau's ruling of March 23, 1977, which denied his political broadcast complaint against stations WMAQ-TV and WBBM-TV, both of Chicago, Illinois.

Special—1—Memorandum Opinion and Notice of Proposed Rule Making concerning uniform settlement rates on parallel international communications routes.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: April 28, 1977.

[S-306-77 Filed 4-28-77;4:09 pm]

17

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Wednesday, May 4, 1977.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

Special—1—Report and Order in Docket No. 20496 relating to the use of fixed mileage zones for the purposes of determining cable television signal carriage obligations.—2—Legislative recommendation to repeal § 315 of the Communications Act.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: April 27, 1977.

[S-307-77 Filed 4-28-77;4:10 pm]

18

AGENCY HOLDING THE MEETING: Federal Power Commission.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE: May 2, 1977, 9:30 a.m.

PLACE: 825 North Capitol Street, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. CP75-96 et al., El Paso Alaska Company, et al. Chairman Dunham and Smith, Holloman and Watt voted that agency business requires that the meeting be called with less than the week's notice required by the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-308-77 Filed 4-28-77;4:10 pm]

federal register

MONDAY, MAY 2, 1977

PART II

PRINCIPAL EXECUTIVE BRANCH OFFICIALS of the ADMINISTRATION of JIMMY CARTER

■

appointed
January 20–April 30, 1977

Supplement 3 to 1976/77 United States Government Manual

NOTE: This special supplement to the United States Government Manual is limited to appointments and nominations made after January 20, 1977. Names contained herein replace corresponding names appearing in the 1976/77 edition of the Manual.

Office of the Federal Register
National Archives and Records Service
General Services Administration

PRINCIPAL EXECUTIVE BRANCH OFFICIALS
of the
ADMINISTRATION OF JIMMY CARTER
appointed
January 20–April 30, 1977

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Jimmy Carter

VICE PRESIDENT

Walter F. Mondale

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Secretary of Commerce	Juanita M. Kreps
Secretary of Defense	Harold Brown
Secretary of Health, Education, and Welfare	Joseph A. Califano, Jr.
Secretary of Housing and Urban Development	Patricia Roberts Harris
Secretary of the Interior	Cecil D. Andrus
Attorney General	Griffin B. Bell
Secretary of Labor	Ray Marshall
Secretary of State	Cyrus Vance
Secretary of Transportation	Brockman Adams
Secretary of the Treasury	W. Michael Blumenthal
Assistant to the President for National Security Affairs	Zbigniew Brzezinski
Director, Office of Management and Budget	Thomas Bertram Lance
Assistant to the President	James R. Schlesinger
Chairman, Council of Economic Advisers	Charles L. Schultze
United States Representative to the United Nations and Representative in the Security Council	Andrew J. Young

The Cabinet, a creation of custom and tradition dating back to George Washington's administration, functions at the pleasure of the President. Its purpose is to advise the President upon any subject on which he requests information (pursuant to Article II, section 2, of the Constitution).

The Cabinet is composed of the eleven executive departments listed above and certain other officials of the executive branch to whom the President has accorded Cabinet rank. The Vice President participates in all Cabinet meetings. Also, from time to time, others are invited to participate in a discussion of particular subjects.

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Associate Special Assistant for Personnel (Human Services, International Transportation)	Diana Rock
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Director of Advance	Ellis A. Woodward
Director, White House Military Office	Warren L. Gulley
Physician to the President	Rear Adm. William M. Lukash, MC USN
Chief Executive Clerk	Robert D. Linder
Chief Usher	Rex W. Scouten

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Deputy Director	James T. McIntyre, Jr.
Administrator for Federal Procurement Policy	Lester A. Fettig (Nominatetd 4-12-77)

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Member	Lyle E. Gramley
Member	William D. Nordhaus

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The Vice President	Walter F. Mondale
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Secretary of Defense	Harold Brown

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Central Intelligence Agency

Director	Adm. Stansfield Turner

Office of the Special Representative for Trade Negotiations

Special Representative for Trade Negotiations	Robert S. Strauss

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Chairman	W. Michael Blumenthal, Secretary of the Treasury
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Secretary of the Treasury	W. Michael Blumenthal
Secretary of Commerce	Juanita M. Kreps
Secretary of Labor	Ray Marshall
Secretary of Housing and Urban Development	Patricia Roberts Harris
Director, Office of Management and Budget	Thomas Bertram Lance
Chairman, Council of Economic Advisers	Charles L. Schultze
Assistant to the President for Domestic Affairs and Policy	Stuart E. Eizenstat
Adviser Members:	
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Secretary of the Interior	Cecil D. Andrus
Secretary of Health, Education, and Welfare	Joseph A. Califano, Jr.
Special Representative for Trade Negotiations	Robert S. Strauss

Office of Drug Abuse Policy

Director	Peter G. Bourne (Nominated 2-7-77)
Deputy Director	Lee I. Dogoloff (Nominated 2-7-77)

Office of Science and Technology Policy

Director	Frank Press

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Deputy Chief of Staff and Counsel to the Vice President	Michael Berman
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Appointments Secretary to the Vice President	Penny Miller

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Assistant Secretary for Food and Consumer Services	Carol Tucker Foreman
Assistant Secretary for Marketing Services	Robert H. Meyer
Assistant Secretary for International Affairs and Commodity Programs	Dale E. Hathaway
Assistant Secretary for Conservation, Research and Education	M. Rupert Cutler
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Member, Board of Directors	M. Rupert Cutler
Member, Board of Directors	Carol Tucker Foreman
Member, Board of Directors	Dale E. Hathaway
Member, Board of Directors	Howard W. Hjort
Member, Board of Directors	Robert H. Meyer
Member, Board of Directors	John C. White

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Assistant Secretary for Domestic and International Business	Frank A. Weil
Assistant Secretary for Policy	Jerry J. Jasinowski
Assistant Secretary for Economic Development	Robert Thallon Hall
Assistant Secretary for Science and Technology	Jordan J. Baruch
Assistant Secretary for Tourism	Fabian Chavez, Jr. (Nominated 4-15-77)
Director, Bureau of the Census	Manuel D. Plotkin (Nominated 4-15-77)

DEPARTMENT OF DEFENSE

SECRETARY OF DEFENSE	HAROLD BROWN
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Director of Defense Research and Engineering	William J. Perry
Assistant Secretary for International Security Affairs	David E. McGiffert
Assistant Secretary for Manpower, Reserve Affairs, and Logistics	John P. White (Nominated 4-27-77)
Assistant Secretary for Program Analysis and Evaluation	Russell Murray II
Assistant Secretary for Public Affairs	Thomas B. Ross
Assistant Secretary	Gerald P. Dinneen
General Counsel	Deanne C. Siemer

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SECRETARY OF THE AIR FORCE	JOHN STETSON

DEPARTMENT OF THE ARMY

SECRETARY OF THE ARMY	CLIFFORD L. ALEXANDER, JR.
Assistant Secretary for Installations and Logistics	Alan J. Gibbs
Assistant Secretary for Research and Development	Percy Anthony Pierre (Nominated 4-25-77)

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Assistant Secretary for Research and Development	David E. Mann

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Inspector General	Thomas D. Morris
Assistant Secretary for Legislation	Richard D. Warden
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Assistant Secretary for Education	Mary Berry
Commissioner of Education	Ernest L. Boyer
Assistant Secretary	Henry Jacob Aaron
Assistant Secretary	Arabella Martinez
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General Counsel	Ruth T. Prokop
Assistant Secretary for Legislative Affairs	Harry K. Schwartz
Assistant Secretary for Community Development and Planning	Robert C. Embry, Jr.
New Community Development Corporation: Member, Board of Directors	William J. White
Assistant Secretary for Housing	Lawrence B. Simons
President, Government National Mortgage Association	John H. Dalton (Nominated 4-7-77)
Assistant Secretary for Fair Housing and Equal Opportunity	Chester C. McGuire, Jr.
Assistant Secretary for Policy Development and Research	Donna E. Shalala
Assistant Secretary for Administration	William Antonio Medina (Nominated 4-25-77)
Assistant Secretary for Neighborhood and Consumer Affairs	Geno C. Baroni

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Solicitor	Leo M. Krulitz
Assistant Secretary for Fish, Wildlife, and Parks	Robert L. Herbst
Assistant Secretary for Energy and Minerals	Joan M. Davenport
Assistant Secretary for Land and Water Resources	Guy R. Martin

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Solicitor General	Wade Hampton McCree, Jr.
Assistant Attorney General, Legislative Affairs	Patricia M. Wald
Assistant Attorney General, Civil Division	Barbara Babcock
Assistant Attorney General, Civil Rights Division	Drew S. Days III
Assistant Attorney General, Criminal Division	Benjamin R. Civiletti
Assistant Attorney General	Daniel J. Meador
Commissioner, Immigration and Naturalization Service	Leonel Castillo

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Assistant Secretary for Employment and Training	Ernest G. Green
Assistant Secretary for Labor-Management Relations	Francis X. Burkhardt
Assistant Secretary for Employment Standards	Donald Elisburg
Director, Women's Bureau	Alexis M. Herman
Assistant Secretary for Occupational Safety and Health	Eula Bingham
Solicitor	Carin Ann Clauss

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Chief of Protocol	Evan S. Dobelle
Executive Secretary of the Department	C. Arthur Borg
Special Assistant to the Secretary for Narcotics Matters	Mathea Falco
Ambassador at Large and Special Representative of the President for the Law of the Sea Conference	Elliot L. Richardson
Deputy Secretary of State	Warren M. Christopher
Coordinator for Human Rights and Humanitarian Affairs	Patricia M. Derian (Nominated 4-29-77)
Under Secretary for Coordinating Security Assistance Programs	Lucy Wilson Benson
Under Secretary for Economic Affairs	Richard N. Cooper
Deputy Under Secretary	Richard M. Moose
Deputy Under Secretary for Security, Science and Technology	Joseph Samuel Nye, Jr.
Director General of the Foreign Service	Carol C. Laise
Counselor of the Department	Matthew Nimetz
Legal Adviser	Herbert J. Hansell
Assistant Secretary for Administration	John M. Thomas
Assistant Secretary for Economic and Business Affairs	Julius L. Katz
Director, Bureau of Intelligence and Research	Harold H. Saunders
Assistant Secretary for Oceans and International Environmental and Scientific Affairs	Patsy T. Mink
Assistant Secretary	Douglas J. Bennet, Jr.
Assistant Secretary	Hodding Carter III
Assistant Secretary	Joseph D. Duffey
Assistant Secretary	Richard Holbrooke
Assistant Secretary	Charles William Maynes, Jr.
Assistant Secretary	Terence A. Todman
Administrator, Bureau of Security and Consular Affairs	Barbara M. Watson

Agency for International Development

Administrator	John J. Gilligan
Assistant Administrator	Frederick T. Van Dyk (Nominated 4-29-77)

Permanent Mission of the United States of America to the Organization of American States

Permanent Representative of the United States of America to the Organization of American States	Gale W. McGee

United States Mission to the United Nations

United States Representative to the United Nations and Representative in the Security Council	Andrew J. Young
Deputy United States Representative to the United Nations	James F. Leonard, Jr.
Deputy United States Representative in the Security Council	Donald F. McHenry

United States Diplomatic Offices—Foreign Service

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Australia	Philip H. Alston, Jr.
Belgium	Anne Cox Chambers
Botswana	Donald R. Norland (Nominated 4-25-77)
Cameroon	Mabel Murphy Smythe (Nominated 4-25-77)

United States Ambassadors—Continued

India	Robert F. Goheen
Iran	William H. Sullivan (Nominated 4–7–77)
Israel	Samuel W. Lewis
Italy	Richard N. Gardner
Japan	Michael J. Mansfield
Kenya	Wilbert J. LeMelle (Nominated 4–7–77)
Lebanon	Richard B. Parker
Lesotho	Donald R. Norland (Nominated 4–25–77)
Malta	Lowell Bruce Laingen (Nominated 4–25–77)
Pakistan	George S. Vest (Nominated 4–7–77)
Seychelles	Wilbert J. LeMelle (Nominated 4–7–77)
Swaziland	Donald R. Norland (Nominated 4–25–77)
Turkey	Ronald I. Spiers (Nominated 4–15–77)
Union of Soviet Socialist Republics	Malcolm Toon (Nominated 4–25–77)
United Kingdom	Kingman Brewster, Jr.

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General Counsel	Linda Kamm
Assistant Secretary for Policy, Plans and International Affairs	Chester Davenport
Assistant Secretary for Congressional and Intergovernmental Affairs	Terrence L. Bracy

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Federal Highway Administration

Administrator	William M. Cox

Federal Railroad Administration

Administrator	John McGrath Sullivan (Nominated 4–29–77)

National Highway Traffic Safety Administration

Administrator	Joan B. Claybrook

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Under Secretary for Monetary Affairs	Anthony Morton Solomon
Under Secretary	Bette B. Anderson
Deputy Under Secretary	C. Fred Bergsten
Deputy Under Secretary	Gene Godley
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Assistant Secretary for Economic Policy	Daniel H. Brill
Assistant Secretary for Administration	William J. Beckham, Jr.
Assistant Secretary for Public Affairs	Joseph Laitin
Assistant Secretary for Tax Policy	Laurence N. Woodworth

Internal Revenue Service

Commissioner	Jerome Kurtz

ACTION

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Deputy Director	MARY E. KING

COMMUNITY SERVICES ADMINISTRATION

Director	GRACIELA (GRACE) OLIVAREZ

ENVIRONMENTAL PROTECTION AGENCY

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Deputy Administrator	BARBARA BLUM

EXPORT-IMPORT BANK OF THE UNITED STATES

President	JOHN L. MOORE, JR.

FEDERAL ENERGY ADMINISTRATION

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Deputy Administrator	DAVID J. BARDIN
Assistant Administrator	LESLIE J. GOLDMAN (Nominated 4-7-77)

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Director	Paul C. Warnke
Deputy Director	Spurgeon M. Keeny, Jr. (Nominated 4-27-77)

UNITED STATES CIVIL SERVICE COMMISSION

Commissioner	Alan K. Campbell (Nominated 4-5-77)

UNITED STATES INFORMATION AGENCY

Director	John E. Reinhardt
Deputy Director	Charles W. Bray III (Nominated 4-27-77)

VETERANS ADMINISTRATION

Administrator of Veterans Affairs	Joseph Maxwell Cleland

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federal register

MONDAY, MAY 2, 1977
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

FEDERAL ENERGY ADMINISTRATION

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ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplants:

Docket No.	Owner	Generating station	Power-plant No.	Location
OFU-151	Oklahoma Gas & Electric Co	Mustang	1,2	Oklahoma City, Okla.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find that the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named powerplants. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119 (d)(1)(B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under section 119 (c) or (b) of such Act, if such notification is not given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of section 119 of that Act, and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Environmental Statement (FES 75-1, dated April 25, 1975) or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectivenes. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant tha has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue Prohibition Orders to the powerplants issued above is invited in the form of written and oral presentation of data, views, and arguments.

Comments should address: (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9 a.m. on May 23-25, 1977, in the 2d Floor Training Room, Federal Energy Administration, 2626 West Mockingbird Lane, Dallas, Texas 75235. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Darryl Greenwell, FEA Region VI, 2626 W. Mockingbird Lane, Dallas Texas 75235, 214-749-7727. The request should be received before 4:30 p.m., Monday, May 16, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may by contacted through May 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Wednesday, May 18, 1977, and should submit ten (10) copies of the oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Delbert Fowler, Regional Administrator, Federal Energy Administration, P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas, Texas 75235, before 4:30 p.m., Friday, May 20, 1977.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask questions, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the public reading room located in Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office, Reading Room, 2626 W. Mockingbird Lane, Dallas, Texas 75235, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MC, Federal Energy Administration, Federal Building, Room 3309, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Mustang Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Regional Administrator, 150 Causeway St., room 700, Boston, Mass. 02113; 617-223-3701.

II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, room 3206, New York, N.Y. 10007; 212-264-1021.

III—J. A. LaSala, Regional Administrator, 1421 Cherry St., room 1001, Philadelphia, Pa. 19102; 215-597-3390.

IV—Donald Allen, Regional Administrator, 1655 Peachtree St. NE., 8th floor, Atlanta, Ga. 30309; 404-526-2837.

V—N. Allen Andersen, Regional Administrator, Federal Office Bldg., 175 West Jackson Blvd., room A-333, Chicago, Ill. 60604; 312-353-0540.

VI—Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235; 214-749-7345.

VII—Neil Adams, Regional Administrator, 1150 Grand Ave., Kansas City, Mo. 64106; 816-374-2061.

VIII—Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226; 303-234-2420.

IX—William Arntz, Regional Administrator, 111 Pine St., San Francisco, Calif. 94111; 415-556-7216.

X—Jack B. Robertson, Regional Administrator, 1992 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174; 206-442-7280.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: Mustang Powerplant), Washington, D.C. 20461, 202-566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain fidings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Power-plant No.	Location
OFU-151	Oklahoma Gas & Electric Co	Mustang	1 2	Oklahoma City, Okla.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Oklahoma Gas & Electric Company shall be referred to as the "utility" and as "OG&E".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Numbers 1 and 2 at Mustang Generating Station (Mustang 1 and 2) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. OG&E, in information filed with FEA dated July 8, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information OG&E filed with FEA dated July 8, 1975, and other information available to FEA, the following plant equipment or facilities at Mustang 1 and 2 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment.
2. Boiler (refurbish).
3. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Mustang 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Mustang 1 and 2 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Mustang 1 and 2 will be operated at a 41 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 15 years (as of the date of this NOI), are expected to have at least 10 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Mustang 1 and 2 are estimated to be approximately $13,276,000 which assumes that electrostatic precipitators will be required at a cost of $3,321,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The Mustang Generating Station," February 25, 1977, hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $1,021,000 per year including $290,000 for operating and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by OG&E, the price of natural gas available to Mustang 1 and 2 is approximately $1.08 per million BTU's for natural gas. This represents $1.11 per MCF of natural gas, assuming 1.04 million BTU's per MCF.

(ii) Based on information supplied by OG&E the price of coal available to Mustang 1 and 2 is approximately $1.01 per million BTU's. This represents $16.73 per ton of coal, assuming 16.5 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $0.10 per million BTU's, or $333,000 per year in fuel costs. This estimate is based on fuel consumption presuming Mustang 1 and 2 are operated at a weighted average 41 percent capacity factor and with an average heat rate of 12,500 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Mustang 1 and 2, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $4,509,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Mustang 1 and 2 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $3,488,000 (this represents an amortized cost over the 10 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 26.3 percent of the total initial capital investment of $13,276,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $1,021,000 (these figures are derived from the figures in paragraphs A.1. a., and b.), but will experience an annual fuel cost savings of approximately $333,000. (See paragraph A.1.c.) The estimated net annual increased in cost of producing electricity at Mustang 1 and 2 after conversion will be $4,176,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Mustang 1 and 2. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Mustang 1 and 2 will result in an estimated annual equivalent savings of 5,157,000 MCF of natural gas that otherwise would be used in providing steam for electric power generation. The cost of conversion per MCF of natural gas saved is estimated to be $0.81.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Mustang 1 and 2, FEA proposes to find that such increased cost, per MCF of natural gas saved, is not unreasonable. This determination is based on consideration of the substantial savings of natural gas that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 10 years remaining useful life of the powerplants after conversion, the size and resources of OG&E as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Oklahoma Gas & Electric Co.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Mustang 1 and 2 would be economically feasible. FEA's analysis took into consideration the $13,276,00 additional capital investment cost required for OG&E to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to OG&E powerplants. FEA related these additional capital investment costs to OG&E's net property and plant of $879 million, OG&E's estimate of its 1977-79 construction budget of $488 million, the total capitalization of OG&E of $754 million and the 10 years remaining useful life after conversion of Mustang 1 and 2. FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capability of OG&E to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $4,509,000. This also represents the total estimated annual incremental increase in revenue requirements of OG&E. (FEA also took into consideration revenue requirements of OG&E resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to OG&E powerplants.) This estimate of $4,509,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal", October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $3,330,000, which assumed a predicted effect on OG&E's financial statement and represents revenues required to offset any potential loss in OG&E's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $4,509,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting value of fuel cost savings of approximately $333,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of OG&E should increase by approximately $4,176,000.

4. *Consumer impact.* The potential initial impact of a Prohibition Order to Mustang 1 and 2 is a net increase in revenues required from OG&E consumers of approximately $0.00028 per kilowatt hour of electricity sold by OG&E. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which OG&E selects to finance the increased costs associated with burning coal as a primary energy source at Mustang 1 and 2, the extent to which the cost increase is spread among OG&E consumers, the regulations of policies of the regulatory agencies with jurisdiction over OG&E regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Mustang 1 and 2 will discourage the use of natural gas or pretroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Mustang 1 and 2 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*—A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable ("Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Potential production (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980.

The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows ("FEA 1976 National Energy Outlook"):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976, (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Mustang 1 and 2. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from those companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal wet bottom units, of the type used at Mustang 1 and 2 will be able to burn coal of the following characteristics and comply all applicable air pollution control requirements:

Btu's/lb.	[1] 9,900
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,300
Sulfur (approx.) (percent)	[2] 4.7

[1] Minimum.

[2] Maximum.

b. *Characteristic coal demand from these powerplants.* The potential demand for coal. of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	324

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Mustang 1 and 2 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	32,476
1978	80,178
1979	170,964
1980	200,856
1981	242,590
1982	255,739
1983	272,957
1984	332,834

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Phohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	*Demand (thousand tons)*
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Mustang 1 and 2 (in a probable regional supply/demand relationship related to the location of these powerplants) from BOM Districts 7 through 15, 17, 18, and 20, as follows:

Year:	*Production (thousand tons)*
1977	22,539
1978	54,909
1979	116,267
1980	136,035
1981	164,946
1982	173,938
1983	185,721
1984	226,694

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7 through 15, 17, 18, and 20 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	1,755
1978	3,574
1979	5,070
1980	8,681
1981	10,405
1982	11,156
1983	11,156
1984	11,156

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7 through 15, 17, 18, and 20 with a 2.21–4.71 percent sulfur content (which includes the 4.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons) percent sulfur 2.21 to 4.71*
1977	0
1978	0
1979	26
1980	78
1981	78
1982	3,421
1983	3,421
1984	3,421

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion. FEA's* "Availability Study" has identified nationally and in Bureau of Mines Districts 7 through 15, 17, 18 and 20 uncommitted coal production that meets the requirements of Mustang 1 and 2 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI from all other

Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Mustang 1 and 2 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from BOM Districts 7 through 15, 17, 18 and 20. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of powerplants and coal supply*. Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Mustang 1 and 2 would probably come from BOM District 20 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment*. A primary route for coal delivery for Mustang 1 and 2 would originate in District 20 on the Denver and Rio Grande Western (D&RGW) Railroad taking the coal to Pueblo, Colorado, (coal is trucked from the mine site to the originating point at Salina, Utah), taking the Colorado and Southern (Burlington Lines) to Sixela, Texas, taking Fort Worth & Dallas to Amarillo, Texas, and taking the Chicago, Rock Island & Pacific (CRI&P) to the plants. The total distance is approximately 1,100 miles.

One alternate route from BOM District 20 would involve originating coal on the D&RGW to Pueblo, Colorado, and taking the Atchison, Topeka, and Santa Fe via Newton, Kansas and Wichita, Kansas to the plants.

Another alternate route from the alternate supply would be to originate coal from BOM District 20 on the D&RGW to Denver, Colorado, taking the CRI&P to the plants, via Kansas City, Kansas.

3. *Originating trunk carrier*. The D&RGW, the expected originating carrier of coal for Mustang 1 and 2, has approximately 2,500 hopper cars with an estimated average capacity of 90 tons. Using an average number of deliveries of 20 per year per 90-ton car, the D&RGW may need as many as 180 additional cars to handle the increased demand from Mustang 1 and 2. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Only about 1 percent of the hopper fleet is in heavy bad order and retirement rates through 1985 are expected to average approximately 5 percent per year. The D&RGW indicated that it is willing to acquire any needed capacity involved in shipment to Mustang 1 and 2 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The D&RGW indicated that transportation facilities at those mine sites within BOM District 20 served by the D&RGW are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities*. The primary and alternate destination carrier for Mustang 1 and 2 is the Chicago, Rock Island & Pacific (CRI&P) Railroad. This company's jurisdiction includes tracks to the plant. They presently make non-coal deliveries to the plant.

Oklahoma Gas and Electric Company has informed FEA that Mustang 1 and 2 were designed to burn natural gas with coal as a standby fuel. The existing trackage to the site was not intended to handle coal quantities of the magnitude projected after conversion. Tight curves and loose ties have caused several derailments in the past. To deliver the required coal quantities, the utility indicated that new spur trackage to the plant would have to be constructed. The CRI&P concurred with this assessment and indicated that an engineering study would be necessary to determine the best routing of a new track to the plant. Two possibilities included building a half-mile spur over the existing railroad bed, or building a spur from a new track section recently built to the west of the plant.

The Mustang plant currently has minimal coal unloading capability. This consists of a hopper dump/conveyor system for small car deliveries and a railroad mounted unloading crane capable of handling one 40 or 50 ton car per hour. The utility reported that new unloading facilities would have to be constructed to handle the required tonnage using 90 ton cars.

None of the required construction of track or unloading facilities is either currently underway or planned. While there is no physical reason to preclude coal transportation to Mustang 1 and 2, it will be necessary to construct new trackage and unloading facilities before the required tonnages can be delivered. It is expected that this new construction can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Mustang 1 and 2.

5. *Conclusion*. Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Mustang 1 and 2 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants*. Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Mustang 1 and 2 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system*. 1. The Mustang Generating Station is owned by OG&E, which is a member of the Southwest Power Pool Regional Electric Reliability Council.

2. The term "dispatching system" as used in the proposed finding means OG&E.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 3,325 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Mustang 1 and 2 would implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Muskogee 4	Coal	Add	+572	Feb. 1977.
Muskogee 5	do	Add	+572	Feb. 1978.
Sooner 1	do	Add	+567	Feb. 1979.
Sooner 2	do	Add	+567	Feb. 1980.
		Totals: Added	+2,278	

See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 18, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Mustang 1 and 2.

FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system*. 1. A forecast of the peak load for the dispatching system during the period in which Mustang 1 and 2 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for these forecasts is 7.7 percent.

C. *Maximum projected outages for the dispatching system*. 1. Scheduled outages for normal maintenance during the period in which Mustang 1 and 2 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments resquired by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the year 1982. The potential loss of capacity from a combined

outage of Mustang 1 and 2 would be approximately 145 MW (line 7, attachment 1). This represents the maximum potential loss due to outages at these powerplants, but it is expected that Mustang 1 and 2 will be implementing a Prohibition Order at different times. This maximum potential loss of 145 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all power plants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity for the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparison of this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of the reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Mustang 1 and 2.

5. At the completion of the conversion there will be a net 1.9 MW derating of Mustang 1 and 2 as a result of using coal as their primary energy source.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Mustang 1 and 2, are as presently forecast during the time required to implement a Prohibition Order by Mustang 1 and 2, there will be no impairment of reliability of service within the meaning of ESECA in the area served by OG&E or in the dispatching system as a result of the Order.

OKLAHOMA GAS AND ELECTRIC COMPANY
MUSTANG

ASSUMED CONVERSION PERIODS, MARCH 1–APRIL 30, 1982

	Megawatt capacity
1. Gross capacity as of September 1, 1976	3,325
2. Added capacity	2,278
3. Gross capacity	5,603
4. Scheduled outages for maintenance	687
5. Projected outages due to prohibition orders	145
6. Maximum projected outages due to maintenance and prohibition orders (line 4 plus line 5)	832
7. Unit outage	145
8. Peak load spring 1982	2,653
9. New dependable capacity	4,771
10. Reserve capacity	2,118
11. Reserve margin percent (maintenance and prohibition orders	79.83
12. Reserve margin percent (maintenance only)	85.3

[FR Doc.77-12162 Filed 4-29-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by section 2(a) and (b) of the Energy Supply and Environmental Coordintaion Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplant:

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-150	Interstate Power Co	Fox Lake	3	Sherburn, Minn.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplant from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the Prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue a Prohibition Order to the above-named powerplant. This Prohibition Order will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of section 119 of that Act, and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness.

That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the final Environmental Statement (FES 75-1, dated April 25, 1975) or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue a Prohibition Order to the powerplant listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to the individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9:00 a.m. on May 23 and 24, 1977, 219 S. Dearborn Street, Room 1903, at Chicago, Illinois 60604. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request or a verbal request, if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to George Evans, Region V, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-5168. The request should be received before 4:30 p.m., Monday, May 16, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Wednesday, May 18, 1977, and should submit ten (10) copies of their oral presentation to be made at the hearing, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required to N. Allen Anderson, Regional Administrator, Federal Energy Administration, Federal Office Building, 175 West Jackson Boulevard, Room A-333, Chicago, Illinois 60604, before 4:30 p.m., Friday, May 20, 1977.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask questions, having first determined whether the questions are relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the public reading room located in Room 2107, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, and the FEA Regional Office, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to this proposed Prohibition Order to Executive Communications, Federal Energy Administration, Box MC, Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Fox Lake Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat in in accordance with that determination.

Copies of the regulations implementing section 2(a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Region Administrator, 150 Causeway St., room 700, Boston, Mass. 02114; 617-223-3701.
II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, room 3206, New York, N.Y. 10007; 212-264-1021.
III—J. A. LaSala, Regional Administrator, 1421 Cherry St., room 1001, Philadelphia, Pa. 10102; 215-597-3390.
IV—Donald Allen, Regional Administrator, 1655 Peachtree St. NE., 8th Floor, Atlanta, Ga. 30309; 404-526-2837.
V—N. Allen Andersen, Regional Administrator, Federal Office Bldg., 175 West Jackson Blvd., room A-333, Chicago, Ill. 60604; 312-353-0540.
VI—Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235; 214-749-7345.
VII—Neil Adams, Regional Administrator, 1150 Grand Ave., Kansas City, Mo. 64106; 816-374-2061.
VIII—Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226; 303-234-2420.
IX—William Arntz, Regional Administrator, 111 Pine St., San Francisco, Calif. 94111; 415-556-7216.
X—Jack B. Robertson, Regional Administrator, 1992 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174; 206-442-7280.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OFU (Prohibition Order: ------ Powerplant), Washington, D.C. 20461, (202) 566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-150	Interstate Power Co	Fox Lake	3	Sherburn, Minn.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Interstate Power Company shall be referred to as the "utility" and as "Interstate".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 3 at Fox Lake Generating Station (Fox Lake 3) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Interstate, in information filed with FEA dated July 10, 1975, indicated that this powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Fox Lake 3 is presently burning coal as its primary energy source. Therefore, FEA proposes to find that Fox Lake 3 has the necessary plant equipment and facilities associated with the burning of coal.

C. Within the meaning of ESECA and the regulations promulgated pursuant thereto, this powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning coal at Fox Lake 3 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs.* Since Fox Lake 3 is currently burning coal as its primary energy source, FEA proposes to find that Fox Lake 3 has acquired or modified the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions were not undertaken as a result of (or in contemplation of) the issuance of a Prohibition Order. These acquisitions or modifications either include or should include those necessary for compliance with the requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* FEA proposes to find that there are no apparent significant increases in operating and maintenance costs that would result from the continued burning of coal by Fox Lake 3.

c. *Fuel costs.* The alternate fuel which could be used by Fox Lake 3 is natural gas. However, based on information obtained from the Federal Power Commission and from Interstate, FEA has determined that Fox Lake 3 should continue to experience a substantial curtailment of any future supply of natural gas. FEA, therefore, proposes to find that Fox Lake 3 will continue to burn coal as its primary energy source with no increase in fuel costs as a result of a Prohibition Order.

d. *Total annual costs.* FEA proposes to find that there will be no annual increase in costs incurred, at Fox Lake 3, as a rèsult of an order which prohibits the burning of natural gas or petroleum products.

2. *Reasonableness of costs.* Considering the fact that FEA has determined that Fox Lake 3 should continue to experience a curtailment of its alternate fuel, natural gas, as well as the fact that the utility has acquired or modified such equipment and facilities as are necessary in order to burn coal as its primary energy source, FEA proposes to find that the cost of burning coal in lieu of natural gas or petroleum products is reasonable.

3. *Financial capability of Interstate Power Company.* FEA assumes that any capital investment costs associated with the acquisitions and modifications necessary for the burning of coal at Fox Lake 3 are identified in the utility's current and prospective budgetary plans. FEA proposes to find that the decision by the utility to acquire or modify such equipment and facilities in order to burn coal as a primary energy source at Fox Lake 3 was based on an analysis of the financial capability of the utility to assume such capital investment costs as well as any additional operating and maintenance costs, associated with the burning of coal.

FEA, therefore, proposes to find that the utility has concluded that the burning of coal in lieu of petroleum products or natural gas is economically feasible.

4. *Consumer impact.* FEA proposes to find that the issuance of a Prohibition Order to Fox Lake 3 should have no material effect on Interstate consumers since there will be no significant change in the cost of producing electricity at Fox Lake 3 as a result of the continued burning of coal at this powerplant.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Fox Lake 3 will discourage the use of nautral gas or petroleum products and encourage the continued use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Fox Lake 3 would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*—A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FFA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA is as follows ("FEA 1976 National Energy Outlook"):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to Issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and Round II Coal Conversion Candidates," August 1976 [hereafter "Coal Conversion Study"]):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Fox Lake 3. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommit-

ted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler, of the type used at Fox Lake 3, is able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 8,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximate) (percent)	[2] 2

[1] Minimum.

[2] Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (*thousand tons*)
1982 and thereafter	198

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Fox Lake 3 in a nationwide market as follows:

Year:	Production (*thousand tons*)
1977	24,139
1978	46,733
1979	92,055
1980	113,447
1981	134,286
1982	141,194
1983	150,591
1984	175,497

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (*thousand tons*)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Fox Lake 3 (in a probable regional supply/demand relationship related to the location of this powerplant) from BOM Districts 1 through 15 as follows:

Year:	Production (*thousand tons*)
1977	20,378
1978	39,573
1979	74,016
1980	84,992
1981	99,602
1982	105,362
1983	113,246
1984	132,903

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (*thousand tons*)
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand from BOM Districts 1 through 15 for coal with a 1.81–2.20 percent sulfur content (which includes the 2.0 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (*thousand tons*) *percent sulfur 1.81 to 2.20*
1977	0
1978	0
1979	63
1980	377
1981	377
1982	10,170
1983	10,170
1984	10,170

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 15 uncommitted coal production that meets the requirements of Fox Lake 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Fox Lake 3 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from BOM Districts 1 through 15. FEA observes, however, that this powerplant could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of powerplant and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Fox Lake 3 would probably come from BOM District 19 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as an alternate route. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery to the Fox Lake plant would originate on the Union Pacific Railroad (UP) to Council Bluffs, Iowa. The Chicago & North Western (C&NW) would take the coal to Miloma, Minn. via Sioux City, Iowa. The Chicago Milwaukee St. Paul and Pacific (CMSP&P) would then take it to the plant at Sherburn, Minnesota. The total distance is approximately 800 miles. The alternate route from the primary supply area would involve originating on the Union Pacific to Council Bluffs. The C&NW would carry the coal to Albert Lea, Minnesota. The CMSP&P would then deliver it to the plant.

3. *Originating trunk carrier.* The UP, the originator of coal for Fox Lake 3 has approximately 7,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the UP may need as many as 90 additional cars to handle the demand from Fox Lake 3. This estimate assumes that the railroad will neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. The UP indicated that it is willing to acquire any needed capacity involved in shipment to the Fox Lake facility and that it will modify its expansion plans with demand conditions.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The UP indicated that transportation facilities at those mine sites within BOM District 19 are in satisfactory operating conditions and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* The primary and alternate destination carrier for Fox Lake 3 is the Chicago, Milwaukee, St. Paul and Pacific (CMSP&P). This company's jurisdiction includes tracks to the plant, and coal deliveries are presently being made to the plant via the CMSP&P. The existing tracks are adequate to handle the projected coal demand through 1985. The plant currently has coal unloading facilities which are able to handle the indicated demand, although it is possible that some expansion will be necessary.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery to Fox Lake 3 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission and Interstate, FEA proposes to find that the issuance of a Prohibition Order to Fox Lake 3 will not impair the reliability of service in the area served by the powerplant since there will be no outage as a result of a Prohibition Order to Fox Lake 3.

Interstate has advised FEA that Fox Lake 3 was designed to burn natural gas or coal and is currently burning coal. There will, therefore, be no impairment of reliability of service within the meaning of ESECA in the area served by Interstate as a result of a Prohibition Order.

[FR Doc.77-12163 Filed 4-29-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplants:

Docket No.	Owner	Generating station	Number	Location
OFU-108	City of Vineland Electric Utility	Howard M. Down	10	Vineland, N.J.
OFU-111	General Public Utilities Corp./Jersey Central Power & Light Co.	Sayreville	7	Sayreville, N.J.
OFU-112	do	do	8	Do.
OFU-122	Long Island Lighting Co.	E. F. Barrett	10	Island Park, N.Y.
OFU-124	do	Port Jefferson	30	Port Jefferson, N.Y.
OFU-125	do	do	40	Do.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find that the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named powerplants. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of section 119 of that Act, and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective, will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Environmental Statement (FES 75-1, dated April 25, 1975) or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness.

Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality, and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposes to issue Prohibition Orders to the powerplants listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments of interested persons will be held beginning at 9:00 a.m. on May 13 and 14, 1977, at the Federal Building, Room 305, at 26 Federal Plaza, New York, New York 10007. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Clifford Tomaszewski, FEA Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (214) 264-4834. The request should be received before 5:00 p.m., Friday, May 6, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where person may be contacted through May 12, 1977. Speakers will be contacted by an FEA representative before 5:00 p.m., Monday, May 9, 1977, and should submit ten (10) copies of their oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Alfred Kleinfeld, Regional Administrator, Federal Building, 26 Federal Plaza, Room 3206, New York, New York 10007, before 5:00 p.m., Thursday, May 12, 1977.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask questions, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the public reading room located in Rm. 2107, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office Reading Room, Federal Building, Room 3200, 26 Federal Plaza, New York, New York 10007, between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to these proposed Prohibition Orders to Executive Communications, Federal Energy Administration, Box MC, Room 3309, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the __________ Powerplant." Fifteen copies should be submitted.

All written comments received by 5:00 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices.

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Regional Administrator, 150 Causeway St., room 700, Boston, Mass. 02114; 617-223-3701.

II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, room 3206, New York, N.Y. 10007; 212-264-1021.

III—J. A. LaSala, Regional Administrator, 1421 Cherry St., room 1001, Philadelphia, Pa. 19102; 215-597-3390.

IV—Donald Allen, Regional Administrator, 1655 Peachtree St. NE., 8th floor, Atlanta, Ga. 30309; 404-526-2837.

V—N. Allen Andersen, Regional Administrator, Federal Office Bldg., 175 West Jackson Blvd., room A-333, Chicago, Ill. 60604; 312-353-8420.

VI—Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235; 214-749-7345.

VII—Neil Adams, Regional Administrator, 1150 Grand Ave., Kansas City, Mo. 64106; 816-374-2061.

VIII—Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226; 303-234-2420.

IX—William Arntz, Regional Administrator, 111 Pine St., San Francisco, Calif. 94111; 415-556-7216.

X—Jack B. Robertson, Regional Administrator, 1992 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174; 206-442-7280.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: __________ Powerplant), Washington, D.C., 20461, 202-566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-103	City of Vineland Electric Utility	Howard M. Down	10	Vineland, N.J.

These findings, which are now proposed by FEA, are based on information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

City of Vineland Electric Utility shall be referred to as the "utility" and as "Vineland."

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 10 at the Howard M. Down Generating Station (Down 10) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Vineland, in information filed with FEA dated July 10, 1975, indicated that the powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information Vineland filed with FEA dated July 10, 1975, and other information available to FEA, the following plant equipment or facilities at Down 10 would have to be acquired or refurbished in order for this powerplant to burn coal as its primary energy source:

1. Pulverizers and associated equipment.

C. FEA proposes to find that on June 22, 1974, Down 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal at Down 10 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Down 10 will be operated at an 80 percent capacity factor, has a remaining useful life of 29 years (as of the date of this NOI), is expected to have at least 28 years remaining useful life after conversion of the powerplant, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Down 10 are estimated to be approximately $184,000 which assumes that waste water treatment equipment will be required at a cost of $173,000 to comply with the water pollution control requirements of the Federal Water Pollution Control Act. This estimate is based on a PEDCo—Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The Down 10 Plant," March 5, 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $251,000 per year. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by Vineland, the price of petroleum products available to Down 10 is approximately $2.31 per milion BTU's for oil. This represents $14.07 per barrel of oil, assuming 6.1 million BTU's per barrel.

(ii) Based on information supplied by Vineland, the price of coal available to Down 10 is approximately $1.23 per million BTU's. This represents $31.98 per ton of coal, assuming 26.0 million BTU's per ton.

(iii) FEA estimates that the burning of coal by this powerplant will result in the reduction of approximately $1.08 per million BTU's, or $2,368,000 per year in fuel costs. This estimate is based on fuel consumption presuming Down 10 is operated at an 80 percent capacity factor and with an average heat rate of 12,514 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Down 10, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $271,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Down 10 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $19,700 (this represents an amortized cost over the 28 years remaining useful life of this powerplant after conversion, and is based on a fixed charge rate of 10.7 percent of the total initial capital investment of $184,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $251,000 (these figures are derived from the figures in paragraphs A.1. a, and b.), but will experience an annual fuel cost savings of approximately $2,368,000. (See paragraph A.1.c.) Considering the fuel cost savings, the total annual cost of operating Down 10 should be reduced by $2,097,000.

Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Down 10. The costs to the utility resulting from a Prohibilion Order ultimately will be recovered in rates.

The use of coal at Down 10 will result in an estimated annual equivalent savings of 360,000 barrels of oil that otherwise would be used in providing steam for electric power generation.

FEA proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at the powerplant are offset by the current fuel cost differential between oil and coal burning at this powerplant, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capabilities of Vineland.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Down 10 would be economically feasible. FEA's analysis took into consideration the $184,000 additional capital investment costs required for Vineland to comply with this NOI, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to Vineland's powerplants.

FEA related these additional capital investment costs to Vineland's net property and plant of $23.9 million, the utility's estimate of its 1977–79 construction budget of $235 million, the total capitalization of the utility of $29 million, and the 28 years remaining useful life after conversion of Down 10.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of Vineland to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI would be $271,000. This also represents the total estimated annual incremental increase in revenue requirements of the utility.

(FEA also took into consideration revenue requirements of the utility resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to Vineland's powerplants.) This estimate of $271,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification of Possible Financial Effects of Converting Certain Electric Generating Facilities To The Use Of Coal," October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $264,000 which assumed a predicted effect on Vineland's financial statement and represents revenues required to offset any potential loss in net income as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $271,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting value of fuel cost savings of approximately $2,368,000 attributable to compliance with this NOI, the net annual revenue requirements of Vineland should decrease by approximately $2,097,000.

4. *Consumer impact.* The potential initial impact of a Prohibition Order to Down 10 is a net decrease in revenues required from Vineland's consumers of approximately $0.0074 per kilowatt hour of electricity sold by Vineland. This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which Vineland selects to finance the increased costs associated with burning coal as a primary energy source at Down 10, the extent to which the cost decrease is spread among Vineland's consumers, the regulations or policies of the regulatory agencies with jurisdiction over Vineland regarding inclusion of such cost decreases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Down 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Down 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until Decembter 31, 1984.*—A. Coal *availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable ("Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected

total planned national coal production, already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.6
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows ("FEA 1976 National Energy Outlook"):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976 [hereafter "Coal Conversion Study"]):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Down 10. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their uncommitted 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler, of the type used at Down 10, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 12,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 10
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.5

[1] Minimum.

[2] Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1977	21
1978 and thereafter	84

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Down 10 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	15,511
1978	30,521
1979	56,681
1980	69,131
1981	81,867
1982	86,452
1983	92,821
1984	107,352

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.3.c., above, is:

Year:	*Demand (thousand tons)*
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Down 10 (in a probable regional supply/demand relationship related to the location of this powerplant) from Bureau of Mines (BOM) Districts 1 through 15 as follows:

Year:	*Production (thousand tons)*
1977	15,004
1978	29,231
1979	53,016
1980	61,052
1981	71,658
1982	76,033
1983	82,124
1984	95,690

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.c., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand within BOM Districts 1 through 15 for coal with a 1.41-1.80 percent sulfur content (which includes the 1.5 percent maximum sulfur content described in paragraph A.3.a., above), resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons) percent sulfur 1.41 to 1.80*
1977	1,143
1978	1,766
1979	1,957
1980	2,880
1981	3,362
1982	3,458
1983	3,458
1984	3,458

The regional planned production of coal stated in paragraph A.3.c., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in BOM Districts 1 through 15 uncommitted coal production that meets the requirements of Down 10 as described in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date

under authority of section 2(a) of ESECA.

Coal for Down 10 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from BOM Districts 1 through 15. FEA observes, however, that the powerplant could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal By Midwestern and Eastern Utilities in the Period 1978 and Beyond", School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of the powerplant and coal supply*. Based on an FEA study, "Utility Analysis of Coal Transportation Availability", November 1976, (hereafter "Transportation Availability Study"), coal for Down 10 would probably come from BOM District 8 as the primary and alternate source of supply. While this supply area is the nearest available potential source able to provide complying coal to this plant, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment*. A primary route for coal delivery for Down 10 would originate on Consolidated Railroad Corporation (ConRail) which can carry the coal to Down 10 at Vineland, New Jersey, via Altoona, Pennsylvania, Lancaster, Pennsylvania, and Philadelphia, Pennsylvania. The total distance is approximately 300 miles.

One alternate route from BOM District 8 would involve originating coal on ConRail via Williamsport, Pennsylvania, Reading, Pennsylvania, and Philadelphia, Pennsylvania, to the powerplant.

Another alternate route from the alternate supply would be to originate coal from BOM District 8 (Virginia) to Baltimore, Maryland on the Chessie (Baltimore & Ohio), to the powerplant via Philadelphia, Pennsylvania, on ConRail.

3. *Originating trunk carrier*. ConRail, the expected originating carrier of coal for Down 10 has approximately 52,000 hopper cars with an estimated average capacity of 80 tons. Using an average number of deliveries of 10 per year per 80-ton car, ConRail may need as many as 105 additional cars to handle the increased demand from Down 10. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

ConRail indicated that it is willing to acquire any needed capacity involved in shipment to Down 10 and that it would modify its expansion plans with demand conditions. ConRail also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive Orders under section 2(a) of ESECA.

ConRail indicated that transportation facilities at the mine sites within BOM District 8 are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities*. The primary and alternate destination carrier for Down 10 is ConRail. This carrier's jurisdiction includes tracks to the plant on which coal deliveries have historically been made. The plant has two sidings, each of which has well maintained loading facilities sufficient to handle the indicated demand according to the utility. Conversion of Down 10 to coal is presently planned and supply arrangements have been negotiated. All facilities are in good condition and have adequate capacity.

5. *Conclusion*. Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no constraints to coal delivery over the primary route to Down 10 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant*. Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Down 10 will not impair the reliability of service in the area served by the powerplant. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system*. 1. The Down Station is owned by Vineland, which is a member of the Pennsylvania/New Jersey/Maryland Interconnection (PJM), which is within the geographical area of the Mid-Atlantic Area Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means the PJM.

3. The gross capacity, as of September 1, 1976, of all dispatching system powerplants was 44,543 MW (see line 1, attachment 1).

4. Proposed changes up to the period in which Down 10 would implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Salem 1	Nuclear	Add	+1090	Dec. 1976.
Martins Creek 4	Oil	Add	+850	Jan. 1977.
Calvert Cliffs 2	Nuclear	Add	+900	Mar. 1977.
Crawford 3	Coal	Retired	−42	Do.
Crawford 4	do	do	−5	Do.
Gould St. 1	Oil	do	−33	Apr. 1977.
Gould St. 2	Oil	do	−33	Do.
Easton 21	Oil	Add	+625	May 1977.
Easton 22	Oil	Add	+625	Do.
Easton 3	Oil	Retired	−.7	Do.
Gilbert 8	Oil	Add	+130	Do.
		Totals:		
		Added	+2983	
		Retired	−114	
		Net change	+2869	

See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 29, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to be projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Down 10. FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system*. 1. A forecast of the peak load for the dispatching system during the period in which Down 10 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for this forecast is 5.4 percent.

C. *Maximum projected outages for the dispatching system*. 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the period in which Down 10 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplant may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, this projected outage is most likely to occur during the year 1977. The potential loss of capacity from an outage of Down 10 would be approximately 25 MW (line 7, attachment 1) which is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system*. 1. Based on the foregoing information, the net dependable capacity for the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Down 10.

5. There will be no derating of Down 10 as a result of using coal as its summary energy source.

6. Existing transmission system interconnections may transfer an additional 6,350 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Down 10, are as presently forecast during the time required to implement a Prohibition Order by Down 10, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Vineland or in the dispatching system as a result of the Order.

PJM Reliability Data Vineland

ASSUMED CONVERSION PERIOD, JULY 1 TO AUGUST 31, 1977

	Megawatt capacity
1. Gross capacity of PJM as of Sept. 1, 1976	44, 543
2. Added capacity	2, 869
3. Gross capacity	47, 412
4. Scheduled outages for maintenance	2, 000
5. Projected outages due to prohibition orders	25
6. Maximum projected outages due to maintenance and prohibition orders (line 4 plus line 5)	2, 025
7. Unit outage	25
8. Peak load summer 1977	33, 130
9. Net dependable capacity	45, 387
10. Reserve capacity	12, 257
11. Reserve margin percent (maintenance and prohibition orders)	37
12. Reserve margin percent (maintenance only)	37. 07

Appendix—Proposed Findings and Rationale for Notice of Intention To Issue a Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-111	General Public Utilities Corp./Jersey Central Power & Light Co.	Sayreville	7	Sayreville, N.J.
OFU-112			8	

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Jersey Central Power and Light Company, a wholly-owned subsidiary of General Public Utilities Corporation, shall be referred to as the "utility" and as "JCPL."

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Number 7 and Number 8 at Sayreville Generating Station (Sayreville 7 and 8) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. JCPL, in information filed with FEA dated July 24, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information JCPL filed with FEA dated July 24, 1975, and other information available to FEA, the following plant equipment or facilities at Sayreville 7 and 8 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment
2. Pulverizers, burners and boilers
3. Ash handling equipment

C. FEA proposes to find that on June 22, 1974, Sayreville 7 and 8 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Sayreville 7 and 8 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Sayreville 7 and 8 will be operated at a 55 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 16 years (as of the date of this NOI), are expected to have at least 11 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Sayreville 7 and 8 are estimated to be approximately $37,102,000, which assumes that flue gas desulfurization equipment (venturi scrubbers included) will be required at a cost of $28,164,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The Sayreville Generating Station," February 25, 1977, (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $9,903,000 per year including $7,989,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by JCPL, the price of petroleum products available to Sayreville 7 and 8 is approximately $2.44 per million BTU's for oil. This represents $14.74 per barrel of oil, assuming 6.04 million BTU's per barrel.

(ii) Based on information supplied by the Federal Power Commission, the price of coal available to Sayreville 7 and 8 is approximately $1.07 per million BTU's. This represents $26.90 per ton of coal, assuming 25.0 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $1.37 per million BTU's, or $17,189,000 per year in fuel costs. This estimate is based on fuel consumption presuming Sayreville 7 and 8 are operated at a weighed average 55 percent capacity factor and with an average heat rate of 10,568 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Sayreville 7 and 8, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $19,258,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Sayreville 7 and 8 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $9,355,000 (this represents an amortized cost over the 11 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 25.2 percent of the total initial capital investment of $37,102,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $9,903,000 (these figures are derived from the figures in paragraphs A.1.a., and b.), but will experience an annual fuel cost savings of approximately $17,189,000. (See paragraph A.1.c.) The estimated net annual increase in cost of producing electricity at Sayreville 7 and 8 after conversion will be $2,069,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be in an increase in the cost of producing electricity at Sayreville 7 and 8. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Sayreville 7 and 8 will result in an estimated annual equivalent savings of 2,086,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrell of oil saved is estimated to be $0.99.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Sayreville 7 and 8, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 11 years remaining useful life of the powerplants after conversion, the size and resources of General Public Utilities Corporation as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of General Public Utilities Corporation.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Sayreville 7 and 8 would be economically feasible. FEA's analysis took into consideration the $37,102,000 additional capital investment required for General Public Untilties Corporation to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to General Public Utilities Corporation powerplants. FEA related these additional capital investment costs to General Public Utilities Corporation's net property and plant of $2.4 billion, General Public Utilities Corporation's estimate of its 1977–79 construction budget of $1.3 billion, the total capitalization of General Public Utilities Corporation of $3.2 billion, and the 11 years remaining useful life after conversion of Sayreville 7 and 8.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financing relationship which exists between General Public Utilities Corporation and its subsidiaries, and their combined financial capabilities to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $19,258,000. This also represents the total estimated annual incremental increase in revenue requirements of the subsidiaries of General Public Utilities Corporation. (FEA also took into consideration revenue requirements of the subsidiaries of General Public Utilities Corporation resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to General Public Utilities Corporation powerplants). This estimate of $19,258,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976 (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled, "Identification of Possible Financial Effects of Converting Certain Electric Generating Facilities to the Use of Coal," October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $17,849,000 which assumed a predicted effect on General Public Utilities Corporation's financial statement and represents revenues required to offset any potential loss in General Public Utilities Corporation's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $19,258,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $17,189,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of General Public Utilities Corporation should increase by approximately $2,069,000.

4. *Consumer impact.* The JCPL, a wholly-owned subsidiary of General Public Utilities Corporation, is the owner and operator of the Sayreville Generating Station and the relevant entity for considering the consumer impact of compliance with a Prohibition Order to Sayreville 7 and 8.

The potential initial impact of a Prohibition Order to Sayreville 7 and 8 is a net increase in revenues required from JCPL consumers of approximately $0.000077 per kilowatt hour of electricity sold by JCPL. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which General Public Utilities Corporation selects to finance the increased costs associated with burning coal as a primary energy source at Sayreville 7 and 8, the extent to which the cost increase is spread among JCPL consumers, the regulations or policies of the regulatory agencies with jurisdiction over JCPL regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Sayreville 7 and 8 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Sayreville 7 and 8 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*—A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Potential production (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976, (hereafter "Availability Study") indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976, (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Sayreville 7 and 8. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that cyclone boilers of the type used at Sayreville 7 and 8 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 13,000
Moisture (percent)	[2] 15
Ash softening temp. (°F)	[2] 2,300
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[2] 2,300
Sulfur (approx.) (percent)	[2] 2

[1] Minimum.

[2] Maximum.

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1982 and thereafter	504

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Sayreville 7 and 8 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	7,288
1978	18,537
1979	18,289
1980	49,159
1981	58,289
1982	61,337
1983	65,321
1984	79.190

d. *National ESECA prohibition demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Sayreville 7 and 8 (in a probable regional supply/demand relationship related to the location of these powerplants) from Bureau of Mines (BOM) Districts 1 through 15 as follows:

Year:	Production (thousand tons)
1977	7,288
1978	18,537
1979	42,289
1980	49,159
1981	58,289
1982	61,337
1983	65,321
1984	79,190

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 15 with a 1.81–2.20 percent sulfur content (which includes the 2.0 maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur *1.81 to 2.20*
1977	0
1978	6
1979	63
1980	377
1981	377
1982	10,170
1983	10,170
1984	10,170

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availibility Study" has identified nationally and in Bureau of Mines Districts 1 through 15 uncommitted coal production that meets the requirements of Sayreville 7 and 8 as described in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA.

Coal for Sayreville 7 and 8 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from Bureau of Mines Districts 1 through 15. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of powerplants and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Sayreville 7 and 8 would probably come from Bureau of Mines (BOM) District 8 as the primary supply area and from District 13 as the alternate source location. While these supply areas are the nearest available potential sources able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery from BOM District 8 for Sayreville 7 and 8 would originate on the Norfolk & Western (N&W) Railroad which can carry the coal to Hagerstown, Maryland, then Consolidated Railroad Corporation (Conrail) can take the coal to New York's Port Reading pier, where it is transferred to Sayreville 7 and 8 on the Raritan River by inland barges operated by Express Marine or Red Star Towing and Transportation. The total rail distance is approximately 600 miles.

One alternate route from BOM District 8 would involve originating coal on the Chessie (Chesapeake & Ohio) to Huntington, West Virginia, to Pittsburgh, Pa. on the Baltimore & Ohio (Chessie), to Port Reading, New York, on Conrail and by barge to the plant as above.

Another alternate route from the alternate supply source would be to originate coal from BOM District 13 (Alabama) to Bristol, Virginia, on the Southern Line via Chattanooga, Tenn. the N&W to Hagerstown, Md., and to the plant as in the primary route.

3. *Originating trunk carrier.* The N&W, the expected originating carrier of coal for Sayreville 7 and 8, has approximately 54,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the N&W may need as many as 300 additional cars to handle the increased demand from Sayreville 7 and 8. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

The N&W indicated that it is willing to acquire any needed capacity involved in shipment to Sayreville 7 and 8 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The N&W indicated that transportation facilities at those mine sites within BOM District 8 served by the N&W are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Coal would be delivered to Sayreville 7 and 8 by inland barge from New York's Port Reading. Express Marine and Red Star Towing and Transportation have expressed willingness to provide the necessary barging services. Although present barge capacity is sufficient to handle the needs of this plant, if all the conversion candidates are ordered to convert, new barges will have to be built. The barge companies have indicated that they are willing to undertake the necessary construction given sufficient lead time and a long term barging commitment.

Sayreville 7 and 8 are equipped with a coal tower with a bucket unloading system. Since the equipment has not been in routine use for several years, some time will be spent on minor repairs to put it in operating condition. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Sayreville 7 and 8.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Sayreville 7 and 8 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Sayreville 7 and 8 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below.

A. *Description of the dispatching system.* 1. The Sayreville Generating Station is owned by JCPL, which is owned by General Public Utilities Corporation, which is a member of the Pennsylvania/New Jersey/Maryland (PJM) Interconnection system, which is within the geographical area of the Mid-Atlantic Area Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means the PJM.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 44,543 MW. (See line 1 of attachment 1).

4. Proposed changes up to the period in which Sayreville 7 and 8 would implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Salem 1	Nuclear	Add	+1000	Dec. 1976.
Martins Creek 4	Oil	Add	+850	Jan. 1977.
Calvert Cliffs 2	Nuclear	Add	+900	Mar. 1977.
Crawford 3	Coal	Retire	−42	Do.
Crawford 4	do	do	−5	Do.
Gould St. 1	Oil	do	−33	Apr. 1977.
Gould St. 2	Oil	do	−33	Do.
Easton 21	Oil	Add	+6.25	May 1977.
Easton 22	Oil	Add	+6.25	Do.
Easton 3	Oil	Retire	−.7	Do.
Gilbert 8	Oil	Add	+130	Do.
Homer City 3	Coal	Add	+693	Oct. 1977.
Twice Mile Island 2	Nuclear	Add	+927	May 1978.
Crawford 1	Oil	Retire	−33	June 1978.
Crawford 2	Oil	do	−33	Do.
Salem 2	Nuclear	Add	+1115	May 1979.
Indian River 4	Coal	Add	+445.5	Do.
Brandon Shores 1	Oil	Add	+610	Feb. 1980.
Chalk Point 4	Oil	Add	+601	May 1980.
Susquehanna 1	Nuclear	Add	+1050	Nov. 1980.
Easton 4	Oil	Retire	−.7	May 1981.
Westport 1	Oil	do	−25	Jan. 1982.
Westport 13	Oil	do	−20	Do.
Westport 14	Oil	do	−20	Do.
Brandon Shores 2	Oil	Add	+610	Feb. 1982.
		Totals:		
		Added	+9034	
		Retired	−245	
		Net change	+8789	

See line 2 of attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 29, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for the conversion of Sayreville 7 and 8. FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Sayreville 7 and 8 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for this forecast is 5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the period in which Sayreville 7 and 8 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the Spring load period. The potential loss of capacity from a combined outage of Sayreville 7 and 8 would be approximately 248 MW (line 7 of attachment 1). This represents the maximum potential loss due to outages at these powerplants, but it is expected that Sayreville 7 and 8 will be implemening a Prohibition Order at different times. This maximum potential loss of 248 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Sayreville 7 and 8.

5. At the completion of the conversion there will be a net 5.8 MW derating of Sayreville 7 and 8 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 9,250 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion*. If dispatching system conditions, including any scheduled outage by Sayreville 7 and 8, are as presently forecast during the time required to implement a Prohibition Order by Sayreville 7 and 8, there will be no impairment of reliability of service within the meaning of ESECA in the area served by JCPL or in the dispatching system as a result of the Order.

ATTACHMENT 1

PJM RELIABILITY DATA SAYREVILLE

ASSUMED CONVERSION PERIOD MAR. 1–JUNE 30, 1982

	Megawatt capacity
1. Gross capacity of PJM as of Sept. 1, 1976	44, 543
2. Added capacity	8, 789
3. Gross capacity	53, 332
4. Scheduled outages for maintenance	10, 132
5. Projected outages due to prohibition orders	468
6. Maximum projected outages due to maintenance and prohibition orders (line 4 and line 5)	10, 600
7. Unit outage	248
8. Peak load spring 1982	32, 923
9. Net dependable capacity	42, 732
10. Reserve capacity	9, 809
11. Reserve margin and (maintenance and prohibition orders)	29. 79
12. Reserve margin and (maintenance only)	31. 22

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-122	Long Island Lighting Co.	E. F. Barrett	10	Island Park, N.Y.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Long Island Lighting Company shall be referred to as the "utility" and as "LILCO".

I. *Capability and necessary plant equipment to burn coal*. FEA proposes to find that on June 22, 1974, Powerplant Number 10 at E. F. Barrett Generating Station (Barrett 10) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. LILCO, in information filed with FEA dated July 23, 1975, indicated that the power plant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information LILCO filed with FEA dated July 23, 1975, and other information available to FEA, the following plant equipment or facilities at Barrett 10 would have to be acquired or refurbished in order for the powerplant to burn coal as its primary energy source:

1. Coal handling equipment.
2. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Barrett 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA*. FEA proposes to find that the burning of coal at Barrett 10 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Barrett 10 will be operated at a 61 percent capacity factor, has a remaining useful life 15 years (as of the date of this NOI), is expected to have at least 10 years remaining useful life after conversion of the powerplant, and on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs*. The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Barrett 10 are estimated to be approximately $22,972,000, which assumes that flue gas desulfurization equipment (venturi scrubber included) will be required at a cost of $16,574,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The E. F. Barrett Plant," February 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs*. The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $4,678,000 per year including $2,617,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs*. (i) Based on information supplied by LILCO, the price of petroleum products available to Barrett 10 is approximately $2.28 per million BTU's for oil. This represents $13.93 per barrel of oil, assuming 6.1 million BTU's per barrel.

(ii) Based on information supplied by the Federal Power Commission, the price of coal available to Barrett 10 is approximately $1.19 per million BTU's. This represents $29.51 per ton of coal, assuming 24.8 million BTU's per ton.

(iii) FEA estimates that the burning of coal by this powerplant will result in a reduction of approximately $1.09 per million BTU's, or $10,797,000 per year in fuel costs. This estimate is based on fuel consumption presuming Barrett 10 is operated at a 61 percent capacity factor and with an average heat rate of 9,808 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion*. As a result of the conversion of Barrett 10, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $11,343,000.

2. *Reasonableness of costs of conversion*. The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Barrett 10 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $6,665,000 (this represents an amortized cost over the 10 years remaining useful life of this powerplant after conversion, and is based on a fixed charge rate of 29.0 percent of the total initial capital investment of $22,972,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $4,678,000 (these figures are derived from the figures in paragraph A.1 a. and b.), but will experience an annual fuel cost savings of approximately $10,797,000. (See paragraph A.1.c.) The estimated net annual increase in the cost of producing electricity at Barrett 10 after conversion will be $546,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Barrett 10. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Barrett 10 will result in an estimated annual equivalent savings of 1,621,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrel of oil saved is estimated to be $0.34.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Barrett 10, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 10 years remaining useful life of the powerplant after conversion, the size and resources of LILCO as examined in the following analysis of financial capability, the nature of the expected operations of this powerplant, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Long Island Lighting Company.*—a. *Recovery of capital investment*. FEA proposes to find that compliance with a Prohibition Order to Barrett 10 would be economically feasible. FEA's analysis took into consideration the $54,965,000 additional capital investment required for LILCO to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to LILCO's powerplants. FEA related these additional capital investment costs to LILCO's net property and plant of $1.7 billion, LILCO's estimate of its 1977–79 construction budget of

$1.1 billion, the total capitalization of LILCO of $1.7 billion, and the 10 years remaining useful life after conversion of Barrett 10.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of LILCO to assume such costs.

b. *Total annual costs associated with conversion*. The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $29,141,000. This also represents the total estimated annual incremental increase in revenue requirements of the utility. (FEA also took into consideration revenue requirements of LILCO resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to LILCO powerplants.) This estimate of $29,141,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use, Of Coal," October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $27,917,000, which assumed a predicted effect on LILCO's financial statement and represents revenues required to offset any potential loss in LILCO's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $29,141,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $26,070,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the utility should increase by approximately $3,071,000.

4. *Consumer impact*. The potential initial impact of a prohibition Order to Barrett 10 is a net increase in revenues required from LILCO consumers of approximately $0.00005 per kilowatt hour of electricity sold by LILCO. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which LILCO selects of financing the increased costs associated with burning coal as a primary energy source at Barrett 10, the extent to which the cost increase is spread among LILCO consumers, the regulations or policies of the regulatory agencies with jurisdiction over LILCO regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA*. Because the issuance of a Prohibition Order to Barrett 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Barrett 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves*. United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable ("Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand*. The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production*. It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quanties:

Year:	*Production potential* (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand*. The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand*. The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issued Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows "Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976, (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand*. FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Barrett 10. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant*. FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler of the type used at Barrett 10 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 13,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 2

[1] Minimum.

[2] Maximum

b. *Characteristic coal demand from this powerplant*. The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1982 and thereafter	399

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Barrett 10 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	11,872
1978	23,889
1979	48,726
1980	55,980
1981	65,394
1982	68,777
1983	73,194
1984	87,303

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Barrett 10 (in a probable regional supply/demand relationship related to the location of this powerplant) from Bureau of Mines (BOM) Districts 1 through 15 as follows:

Year:	Production (thousand tons)
1977	11,872
1978	23,889
1979	48,726
1980	55,980
1981	65,394
1982	68,777
1983	73,194
1984	87,303

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regonal ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 15 with a 1.8-2.2 percent sulfur content (which includes the 2.0 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 1.8 to 2.20
1977	0
1978	0
1979	63
1980	377
1981	377
1982	10,170
1983	10,170
1984	10,170

The regional planned production of coal, stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 15 uncommitted coal production that meets the requirements of Barrett 10 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA.

Coal for Barrett 10 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from Bureau of Mines Districts 1 through 15. FEA observes, however, that this powerplant could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplant and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Barrett 10 would probably come from Bureau of Mines (BOM) District 1 as the primary source of supply and from District 8 as the alternate source of supply. While these supply areas are the nearest available potential sources able to supply complying coal to this powerplant, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery from BOM District 1 for Barrett 10 would originate on Consolidated Railroad Corporation (Conrail) to Scranton, Pennsylvania, taking the Delaware & Hudson (D&H) to Lanesboro, Pennsylvania, Conrail to New York City and the Long Island Railroad (LIRR) to Island Park, New York. The total rail distance is approximately 500 miles.

One alternate route from BOM District 1 would involve originating on Conrail to New York City via Lewistown, Pennsylvania, Harrisburg, Pennsylvania, and Philadelphia, Pennsylvania and then by LIRR to the powerplant.

Another alternate route from an alternate supply source would be to originate coal from BOM District 8 (Virginia) to Norfolk, Virginia, on the Norfolk & Western (N&W), then by ocean barge to Port Reading, New York, and by Conrail to New York City and the LIRR to the powerplant.

3. *Originating trunk carrier.* Conrail, the expected originating carrier of coal for Barrett 10, has approximately 52,000 hopper cars with an estimated average capacity of 80 tons. Using an average number of deliveries of 10 per year per 80-ton car, Conrail may need as many as 500 additional cars to handle the increased demand from Barrett 10. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Conrail indicated that it is willing to acquire any needed capacity involved in shipment to Barrett 10 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under Section 2(a) of ESECA.

Conrail indicated that transportation facilities at those mine sites within BOM District 1 served by Conrail are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Long Island Railroad (LIRR) is the destination carrier for Barrett 10. LIRR's jurisdiction includes tracks to the plant. The existing trackage is sufficient to handle the indicated coal demand through 1985. Barrett 10 presently has coal unloading facilities, since it once burned coal as its primary fuel. These facilities are adequate to handle the projected coal demand. Some construction or refurbishment of trackage may be needed according to LIRR to replace removed facilities and upgrade old tracks. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Barrett 10.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Barrett 10 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal

Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Barrett 10 will not impair the reliability of service in the area served by the powerplant. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The E. F. Barrett Generating Station is owned by Long Island Lighting Company, which is a member of the New York Power Pool (NYPP), which is within the geographical area of the Northeast Power Coordinating Council.

2. The term "dispatching system" as used in the proposed finding means the NYPP.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 29,786 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Barrett 10 would implement a Prohibition Order, will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Astoria 6	Oil	Add	+787	Dec. 1976.
Hudson Avenue 2 and 3	do	Retire	−34	Do.
Waterside 12	do	do	−33	Do.
Miscellaneous GTS	do	Add	+59	May 1977.
Northport 4	do	do	+386	June 1977.
Homer City 3	Coal	do	+325	Nov. 1977.
Indian Point 3	Nuclear	do	+92	May 1978.
Miscellaneous GTS	do	do	+10	Do.
Mitchell Grds 1 and 2	Solid waste	do	+32	Nov. 1978.
Steele St. 2 and 4	Coal	Retire	−18	May 1978.
Waterside 10, 11, and 13	Oil	do	−73	Dec. 1978.
Waterside 7	do	do	−60	Do.
Miscellaneous GTS	do	Add	+21	May 1979.
Shoreham 1	Nuclear	do	+820	Do.
Indian Point 2 Upr	do	do	+160	Do.
Oswego 6	Oil	do	+850	Nov. 1979.
Indian Point 3 Upr	Nuclear	do	+68	May 1980.
		Totals:		
		Added	+3610	
		Retired	−218	
		Net changes	+3392	

See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC) Form 12E-2 dated October 15, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, the gross capacity in the dispatching system would not be significantly affected during the period required for the conversion of Barrett 10. FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Barrett 10 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for this forecast is 5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants receiving Prohibition Orders and nuclear plant refueling within the NYPP system during the period in which Barrett 10 may be implementing a Prohibition Order may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for the powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplant may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, this projected outage is most likely to occur during the Winter Load Period. The potential loss of capacity from an outage of Barrett 10 would be approximately 188 MW (line 7, attachment 1) which is included on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Barrett 10.

5. At the completion of the conversion there will be a net 4.7 MW derating of Barrett 10 as a result of using coal as its primary energy source.

6. Existing transmission system interconnections may transfer an additional 2,500 MW into the dispatching system. This capacity may provide an additional resource of electrical power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Barrett 10, are as presently forecast during the time required to implement a Prohibition Order by Barrett 10, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Long Island Lighting Company, or in the dispatching system as a result of the Order.

NYPP RELIABILITY DATA
BARRETT

ASSUMED CONVERSION PERIOD JAN. 1 TO FEB. 28 1982

	Megawatt capacity
1. Gross capacity of NYPP as of Sept. 1, 1976	29,786
2. Added capacity	3,392
3. Gross capacity	33,178
4. Scheduled outages for Maintenance	2,856
5. Projected outages due to prohibition orders	558
6. Maximum projected outages due to maintenance and prohibition orders (line 4 plus line 5)	3,414
7. Unit outages	188
8. Peak load winter 1982	23,820
9. Net dependable capacity	29,764
10. Reserve capacity	5,944
11. Reserve margin percent (maintenance and prohibition orders)	24.95
12. Reserve margin percent (maintenance only)	27.30

Appendix—Proposed Findings and Rationale for Notice of Intention To Issue a Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-124 OFU-125	Long Island Lighting Co	Port Jefferson	30 40	Port Jefferson, N.Y.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Long Island Lighting Company shall be referred to as the "utility" and as "LILCO".

I. Capability and necessary plant equipment to burn coal. FEA proposes to find that on June 22, 1974, Powerplants Number 30 and Number 40 at Port Jefferson Generating Station (Port Jefferson 30 and 40) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. LILCO information filed with FEA dated July 23, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information LILCO filed with FEA dated July 23, 1975, and other information available to FEA, the following plant equipment or facilities at Port Jefferson 30 and 40 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment
2. Waste water treatment system

C. FEA proposes to find that on June 22, 1974, Port Jefferson 30 and 40 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Port Jefferson 30 and 40 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Port Jefferson 30 and 40 will be operated at a 79 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 19 years (as of the date of this NOI), are expected to have at least 14 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Port Jefferson is estimated to be approximately $31,993,000, which assumes that electrostatic precipitators will be required at a cost of $25,085,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The Port Jefferson Plants," February 25, 1977, (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $9,451,000 per year including $6,905,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by LILCO, the price of petroleum products available to Port Jefferson 30 and 40 is approximately $1.91 per million BTU's for oil. This represents $11.63 per barrel of oil, assuming 6.1 million BTU's per barrel.

(ii) Based on information supplied by NUS Corporation and The Center for Energy Policy the price of coal available to Port Jefferson 30 and 40 is approximately $1.37 per million BTU's. This represents $35.07 per ton of coal, assuming 25.6 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $0:54 per million BTU's, or $15,273,000 per year in fuel costs. This estimate is based on fuel consumption presuming Port Jefferson 30 and 40 are operated at a weighted average 79 percent capacity factor and with an average heat rate of 10,426 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Port Jefferson 30 and 40, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $17,798,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Port Jefferson 30 and 40 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $8,347,000 (this represents an amortized cost over the 14 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 26.0 percent of the total initial capital investment of $31,993,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $9,451,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately $15,273,000. (See paragraph A.1.c.) The estimated net annual increase in cost of producing electricity at Port Jefferson 30 and 40 after conversion will be $2,525,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Port Jefferson 30 and 40. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Port Jefferson 30 and 40 will result in an estimated annual equivalent savings of 4,644,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrel of oil saved is estimated to be $0.54.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Port Jefferson 30 and 40, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 14 years remaining useful life of the powerplants after the conversion, the size and resources of the LILCO utility as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Long Island Lighting Company*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Port Jefferson 30 and 40 would be economically feasible. FEA's analysis took into consideration the $54,965,000 additional capital investment required for the utility to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued under authority of section 2(a) and (c) of ESECA to LILCO powerplants. FEA related these additional capital investment costs to LILCO's net property and plant of $1.7 billion, LILCO's estimate of its 1977–79 construction budget of $1.2 billion, the total capitalization of the utility of $1.7 billion, and the 14 years remaining useful life after conversion of Port Jefferson 30 and 40.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of the utility to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $29,141,000. This also represents the total estimated annual incremental increase in revenue requirements of LILCO. (FEA also took into consideration revenue requirements of the utility resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2(a) and (c) of ESECA to LILCO powerplants.) This estimate of $29,141,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodolgy For Coal Conversion Cost Reasonableness Determination", August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The

Use Of Coal", October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $27,917,000, which assumed a predicted effect on LILCO's financial statement and represents revenues required to offset any potential loss in LILCO's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $29,141,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $26,070,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of LILCO should increase by approximately $3,071,000.

4. *Consumer impact.* The potential initial impact of a Prohibition Order to Port Jefferson 30 and 40 is a net increase in revenues required from LILCO consumers of approximately 0.00021 per kilowatt hour of electricity sold by LILCO. This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which LILCO selects to finance the increased costs associated with burning coal as a primary energy source, the extent to which the cost increase is spread among LILCO consumers, the regulations or policies of the regulatory agencies with jurisdiction over LILCO regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Port Jefferson 30 and 40 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Port Jefferson 30 and 40 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability—*1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable ("Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976, (hereafter "Availability Study") indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows ("FEA 1976 National Energy Outlook"):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	877
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976, (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Port Jefferson 30 and 40. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal dry bottom boilers of the type used at Port Jefferson 30 and 40 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 13,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 0.8

[1] Minimum.

[2] Maximum.

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	1,105

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Port Jefferson 30 and 40 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	7,258
1978	13,319
1979	23,732
1980	26,889
1981	31,469
1982	33,235
1983	35,543
1984	42,298

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal ,as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand, as previously state in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Port Jefferson 30 and 40 (in a probable regional supply/demand relationship related to the location of these powerplants) from Bureau of Mines (BOM) Districts 1 through 15 as follows:

Year:	Production (thousand tons)
1977	7,258
1978	13,319
1979	23,732
1980	26,889
1981	31,469
1982	33,235
1983	35,543
1984	42,298

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 15 with a 0.61–1.0 percent sulfur content (which includes the 1.0 percent maximum sulfur content described in paragraph A.3.a., above), resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 0.61 to 1.0
1977	1,247
1978	2,767
1979	3,854
1980	7,196
1981	8,750
1982	14,014
1983	14,014
1984	14,014

The regional planned production of coal, as previously stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 15 uncommitted coal production that meets the requirements of Port Jefferson 30 and 40 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued under authority of section 2(a) of ESECA.

Coal for Port Jefferson 30 and 40 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' location from Bureau of Mines Districts 1 through 15. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal Transportation*—1. *Location of powerplants and coal supply.* Based on an FEA Study, "Utility Analysis of Coal Transportation Availability", November 1976, (hereafter "Transportation Availability Study"), coal for Port Jefferson 30 and 40 would probably come from Bureau of Mines (BOM) District 8 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to the powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for the Port Jefferson 30 and 40 would originate on the Norfolk & Western (N&W) Railroad to Hagerstown, Maryland. Consolidated Railroad Corporation (Conrail) would be used as the connecting carrier between Hagerstown and New York City's Port Reading Pier, from which inland barges operated by Express Marine or Red Star Towing and Transportation would take the coal to the plant. The total distance is approximately 600 miles.

One alternate route from BOM District 8 would involve originating coal on the N&W to Lynchburg, Virginia, taking the Southern to Washington, D.C., the Chessie (Baltimore & Ohio) to Baltimore, Conrail to Port Reading, New York, and local barge to the plant.

Another alternate route from an alternate supply would be to originate coal from BOM District 8 (West Virginia) to Hagerstown, Maryland, via the N&W and to the plant as in the primary route.

3. *Originating trunk carrier.* The N&W, the expected originating carrier of coal for Port Jefferson 30 and 40 has approximately 54,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the N&W may need as many as 650 additional cars to handle the increased demand from Port Jefferson 30 and 40. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Only about 2 percent of the hopper fleet is in heavy bad order and retirement rates through 1985 are expected to average approximately 1,200 cars/year. The N&W indicated that it is willing to acquire any needed capacity involved in shipment to Port Jefferson 30 and 40 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity would be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studies, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The N&W indicated that transportation facilities at those mine sites within BOM District 8 served by the N&W are in satisfactory operating condition and that existing loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Coal will most likely be delivered to Port Jefferson 30 and 40 by barge from Port Reading, New York. Express Marine and Red Star Towing and Transportation have expressed willingness to provide the necessary barge services. Although present barge capacity is sufficient to handle the needs of Port Jefferson 30 and 40, if all the conversion candidates are ordered to convert, new barges may have to be built. The barge companies have indicated that they are willing to undertake the necessary construction, given sufficient lead time and a long-term barging commitment.

Port Jefferson 30 and 40 are equipped with bucket unloaders capable of meeting their unloading needs. Since the equipment has not been in routine use for several years, some maintenance will be required to put it into working order. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Port Jefferson 30 and 40.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Port Jefferson 30 and 40 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Port Jefferson 30 and 40 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Port Jefferson Station is owned by

Long Island Lighting Company, which is a member of the New York Power Pool (NYPP), which is within the geographical area of the New York Subarea of the Northeast Power Coordinating Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means the NYPP.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 29,786 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Port Jefferson 30 and 40 would implement a Prohibition Order will result in the gross capacity indicated on line 3 attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Astoria 6	Oil	Add	+787	Dec. 1976.
Hudson Avenue 2, 3	Oil	Retire	−34	Do.
Waterside 12	Oil	do	−33	Do.
Miscellaneous GTS	Oil	Add	+59	May 1977.
Northport 4	Oil	Add	+386	June 1977.
Homer City 3	Coal	Add	+325	Nov. 1977.
Indian Pt. 3	Nuclear	Add	+92	May 1978.
Miscellaneous GTS	Oil	Add	+10	Do.
Mitchel Grds. 1 and 2	Solid waste	Add	+32	Nov. 1978.
Steele St. 2 and 4	Coal	Retire	−18	May 1978.
Waterside 10, 11 and 13	Oil	do	−73	Dec. 1978.
Waterside 7	Oil	do	−60	Do.
Miscellaneous GTS	Oil	Add	+21	May 1979.
Shoreham 1	Nuclear	Add	+820	Do.
Indian Pt. 2 Upr	do	Add	+160	Do.
Oswego 6	Oil	Add	+850	Nov. 1979.
Indian Pt. 3 Upr	Nuclear	Add	+68	May 1980.
		Totals:		
		Added	+3,610	
		Retired	−218	
		Net change	+3,392	

See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 15, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Port Jefferson 30 and 40.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Port Jefferson 30 and 40 would implement a Prohibition Order is indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for these forecasts is 5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Port Jefferson 30 and 40 may be implementing a Prohibition Order, may result in some loss of capacity which is excepted to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the Winter 1982 peak load period. The potential loss of capacity from a combined outage of Port Jefferson 30 and 40 would be approximately 370 MW (line 7, attachment 1). This represents the maximum potential loss due to outages at these powerplants, but it is expected that Port Jefferson 30 and 40 will be implementing a Prohibition Order at different times. This maximum potential loss of 370 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity for the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Port Jefferson 30 and 40.

5. At the completion of the conversion there will be a net 4.3 MW derating of Port Jefferson 30 and 40 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 2,500 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Port Jefferson 30 and 40 are as presently forecast during the time required to implement a Prohibition Order by Port Jefferson 30 and 40 there will be no impairment of reliability of service within the meaning of ESECA in the area served by LILCO in the dispatching system as a result of the Order.

ATTACHMENT 1

NYPP RELIABILITY DATA

PORT JEFFERSON

ASSUMED CONVERSION PERIOD

JANUARY 1—FEBRUARY 28, 1982

	Megawatt capacity
1. Gross capacity of NYPP as of September 1, 1976	29,786
2. Added capacity	3,392
3. Gross capacity	33,178
4. Scheduled outages for maintenance	2,856
5. Projected outages due to prohibition orders	558
6. Maximum projected outages, due to maintenance and prohibition orders (line 4 plus line 5)	3,414
7. Unit outage	370
8. Peak load winter 1982	23,820
9. Net dependable capacity	29,764
10. Reserve capacity	5,994
11. Reserve margin percent (maintenance and prohibition orders)	24.95
12. Reserve margin percent (maintenance only)	27.30

[FR Doc.77-12164 Filed 4-29-77;8:45 am]

federal register

MONDAY, MAY 2, 1977

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

MOBILE OFFSHORE DRILLING UNITS

Requirements

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 50, 54, 56, 58, 61, 107, 108, 109]

[CGD 73-251]

REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard is proposing regulations for the inspection and certification, design and equipment, and operation of mobile offshore drilling units, including regulations for industrial systems. Mobile offshore drilling units have previously been subject to various regulations depending on whether they float while engaged in drilling operations, or whether they drill while bearing on the seabed. These proposed regulations will bring all mobile offshore drilling units under one set of uniform, comprehensive reguations, and will provide that all units be inspected and certificated by the Coast Guard.

DATES: 1. Comments must be received on or before June 29, 1977. 2. Public Hearing: The Coast Guard will hold a public hearing commencing on June 1, 1977, at 9:00 a.m., in Meeting Rooms 2 and 3, The Rivergate, 4 Canal Street, New Orleans, Louisiana 70130.

ADDRESSES: Comments should be submitted to Commondant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Copies of the Navigation and Vessel Inspection Circular addressing the inspection and certification of existing units reference in this document are available for examination at the above address. A copy of the economic evaluation from which the economic summary in this document is taken is also available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this ruelmaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 73-251), the name and address of the person submitting the comments, and the specific section of the proposal to which each comment is addressed. The proposal may be changed in light of comments received before final action on this proposal. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to make comments notify Captain Greiner at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

DISCUSSION OF THE PROPOSED REGULATIONS

GENERAL DISCUSSION

These proposed regulations are applicable to all types of mobile offshore drilling units. Units which float while engaged in drilling operations have been inspected and certificated by the Coast Guard under the regulations in 46 CFR Subchapter I, Rules and Regulations for Cargo and Miscellaneous Vessels. Those which drill while bearing on the seabed have been subject to the regulations in 33 CFR Subchapter N, Rules and Regulations for Artificial Islands and Fixed Structures on the Outer Continental Shelf.

In 1967, the Coast Guard began discussions with the offshore drilling industry to bring bottom bearing units under inspection. In FEDERAL REGISTER Document 87-71, the Coast Guard published proposed rulemaking to inspect bottom bearing mobile drilling units under Subchapter I, Title 46 CFR, Rules and Regulations for Cargo and Miscellaneous Vessels. This was followed by a public hearing in March 1972. All comments received in response to the public rulemaking proceedings were negative and almost unanimous in stating that many of the provisions in Subchapter I were inappropriate for mobile offshore drilling units and in recommending that a separate set of regulations be developed for these unique vessels. Upon evaluation of the comments, the Coast Guard agreed that application of existing regulations to these vessels would result in inconsistencies and would require considerable improvisation during the inspection process. The Coast Guard, therefore, withdrew the Notice of Proposed Rulemaking in May 1972.

In the development of this proposal, the Coast Guard has met at various times, beginning in 1973, with members of the Mobile Offshore Drilling Unit Subcommittee of the National Offshore Operations Industry Advisory Committee (NOOIAC). The Advisory Committee submitted is recommendations to the Coast Guard on November 19, 1976. These recommendations were taken into consideration in the preparation of this proposal.

As previously stated, the regulations in this proposal will be applied to new units. An "existing unit" under the proposed regulations is considered to be a unit which was in existance or contracted for as a mobile offshore drilling unit prior to the effective date of the final rule. All other units will be considered new units and be required to comply with the new regulations.

"Existing units" will fall into two general categories as follows:

(1) Those units which drill while in a floating condition. These units are presently inspected and certificated under the provisions of Subchapter I of Title 46 CFR, Rules and Regulations for Cargo and Miscellaneous Vessels.

(2) Those units which drill while bearing on the seabed. These units are currently subject to the regulations in Subchapter N of Title 33 CFR, Rules and Regulations for Artificial Islands and Fixed Structures on the Outer Continental Shelf, and are not issued Certificates of Inspection by the Coast Guard.

It is not practical to prescribe detailed standards for all existing units which would correct unsafe conditions or bring certain equipment up to present day standards and yet provide the flexibility required by the variety of designs and arrangements. The Coast Guard does not intend to prohibit the use of an existing unit simply because its design and construction do not conform to the minimum standards that will be required for new units. To provide the necessary flexibility, a draft Navigation and Vessel Inspection Circular addressing the inspection and certification of existing units is being prepared.

This proposal does not address manning standards or the licensing and certification of officers and seaman for mobile offshore drilling units. These matters will be addressed by the Coast Guard in separate regulatory proposals.

In addition, this proposal does not address electrical equipment standards for industrial systems aboard mobile offshore drilling units. This matter is being addressed by the Coast Guard in a separate regulatory proposal revising 46 CFR Subchapter J—Electrical Engineering Regulations.

This proposal does not address either the actual drilling operation and procedures or control of the subsea well. It is the intent of the Coast Guard to regulate the "industrial" (drilling) system on mobile offshore drilling units to the extent necessary to assure an acceptable level of safety for the unit and the personnel on board. On the Outer Continental Shelf of the U.S., drilling operations conducted by mobile offshore drilling units and subsea well control equipment and procedures are subject to regulation and monitoring by the U.S. Department of Interior, U.S. Geological Survey. Similarly in waters adjacent to other coastal nations where U.S. mobile offshore drilling units may operate, the actual drilling operation is subject to control by the government of that coastal state.

DISCUSSION OF SPECIFIC PROPOSALS

The proposed regulations are generally self-explanatory. However, the proposed Subchapter II is based on the provisions of 46 CFR Subchapter I, Rules and Regulations for Cargo and Miscellaneous Vessels, with additional provisions appropriate for mobile offshore drilling units added and inappropriate segments of Subchapter I not included. All provisions taken from Subchapter I to be included in the proposed new subchapter have been drafted in a new, less complex format and the entire subchapter has been organized into only three parts: Part

107—Inspection and Certification, Part 108—Design and Equipment, and Part 109—Operations.

Items which represent a significant departure from the provisions of existing regulations (Subchapter I), as currently applied to inspected units, are discussed in the following paragraphs.

For existing uninspected bottom bearing units, all of the provisions of this proposal, with the exception of certain provisions concerning lifesaving equipment, firefighting equipment, guards and rails, station bill and a general alarm system, differ from the regulations currently applied to these units (33 CFR Subchapter N, Rules and Regulations for Artificial Islands and Fixed Structures on The Outer Continental Shelf). This is not intended to imply that existing bottom bearing units do not meet many of the provisions of Subchapter I currently applied to existing inspected units. Although bottom bearing units have not been inspected as vessels by the Coast Guard, they were in fact constructed as vessels and many of them do meet the rules of, and are classed by, the American Bureau of Shipping, or another classification society. Existing inspected units, on the other hand, are required to be constructed in accordance with the applicable rules of the American Bureau of Shipping.

Proposed §§ 107.259 and 107.260 establish requirements for inspection and testing of the material handling cranes that are installed aboard all units. These installations have not been subject to the cargo gear provisions of Subchapter I, being specifically excluded in the definition of cargo gear.

Proposed §§ 107.265 and 107.267 provide for a special examination, in lieu of drydocking, for large column stabilized and self-elevating units. The Coast Guard previously published guidelines for such special examination for large column stabilized units in Navigation and Vessel Inspection Circular 12-69. The provisions of this circular have been incorporated into the proposed regulations. Since the hull of a self-elevating unit is above the water surface and reasonably accessible for inspection during most of the vessel's life, the Coast Guard has concluded that these units should also be given some special consideration in regard to drydocking requirements. Therefore, provisions for a special examination in lieu of drydocking are included for self-elevating units.

Proposed § 108.185 establishes requirements for ventilation of enclosed classified areas. This subject is not addressed in regulations currently applied to mobile offshore drilling units.

Proposed § 108.201 allows the berthing of up to six temporary industrial personnel in one accommodation space. Present regulations limit the maximum number of persons in a space to four. This provision is considered desirable because mobile offshore drilling units often have several service company personnel aboard in addition to their normal personnel complement.

Proposed § 108.209 provides an alternative to the large, dedicated hospital space historically required on seagoing vessels. This provision recognizes that mobile offshore drilling units do not often engage in long ocean voyages, and that transportation to shore is normally available within a reasonable time.

Proposed §§ 108.231 through 108.241 prescribe requirements for helicopter facilities aboard mobile offshore drilling units. These facilities are not covered by existing reguations. The proposal includes requirements for location and size, construction, fuel storage facilities, fuel transfer equipment, and visual aids.

Sections 108.301 through 108.343 provide stability requirements for mobile offshore drilling units in detail rather than the general requirements existing in Subchapter I. The Coast Guard feels that due to the unique operations of mobile offshore drilling units and their various configurations, detailed stability requirements are essential. A requirement for an operating manual including stability information is in the proposal.

Proposed Subpart E of Part 108, Firefighting Equipment, contains requirements similar to existing requirements in Subchapter I, and proposes fire protection requirements for helicopter facilities.

Proposed Table 108.495(a) establishes requirements for hand portable and semi-portable fire extinguishers in areas unique to mobile offshore drilling units including helicopter facilities, the drill floor, and cranes powered by internal combustion engines.

Proposed § 108.497 establishes requirements for an oxygen and explosive meter approved by, Underwriters' Laboratory or Factory Mutual Laboratory as a part of the required fireman's outfits.

Proposed Subpart F of Part 108, Lifesaving Equipment, differs from existing regulations in that the basic standards which now apply only to self-propelled units will be extended to all units. Proposed § 108.503 establishes the requirement that all units be equipped with enough covered, motor propelled lifeboats for 100 percent of the persons on board, and proposed § 108.505 requires enough inflatable liferafts for 100 percent of the persons on board. Existing regulations allow the substitution of inflatable liferafts for lifeboats on all non-self-propelled vessels of over 100 gross tons. This substitution will no longer be permitted since, from a lifesaving viewpoint, there is no significant difference between self-propelled and non-self-propelled mobile offshore drilling units and since, on a drilling location, mobile offshore drilling units have the maximum number of person on board and are subject to the hazards peculiar to the drilling operation as well as to the normal hazards of the marine environment. The term "lifeboat" as used in this proposal means all types of hard hulled motor propelled survival craft approved by the Coast Guard including the type usually referred to as a "survival capsule".

Although the proposal would require either davit launched or throw over type inflatable liferafts for 100 percent of the persons on board, further consideration is being given to requiring davit launching equipment for the required inflatable life rafts. This would provide escape backup in case of damage or malfunction. Tests have been conducted on such launching equipmnt, a sea trial is anticipated soon in the Gulf of Mexico, and the equipment is installed on fixed structures in the North Sea. Approval specifications for launching equipment will be proposed in the FEDERAL REGISTER soon under Docket No. CGD 75-217. Comments on this subject are specifically requested.

The proposal has a requirement for liferaft operation instruction and periodic drills. Analysis of casualties and discussions of IMCO Subcommittee on Life Saving Appliances and the Society of Naval Architects and Mariner Engineers, Life Saving Equipment Panel 0-25 indicate, that improved training would have a significant effect on success of abandonment operations. Considerations is being given to requiring more definite instructions. A manual for each crew member is being considered. Comments and recommendations on the general subject of training and the content of such a manual are specifically requested.

Proposed § 108.517(b) extends the requirement for a line throwing appliance to all non-self-propelled units. This provision is considered desirable because units are almost always attended by smaller supply vessels or tugs in all weather conditions.

Proposed § 108.601 establishes design criteria for the material handling cranes. As noted previously, these installations are exempted from inspection under current regulations.

Proposed §§ 108.611 through 108.615 establish requirements for power operated industrial trucks aboard units. The use of power operated industrial trucks aboard units differs greatly from their use aboard cargo vessels, where most operations take place in cargo holds. The proposed requirements are therefore considerably less complicated than the requirements currently existing in Subchapter I.

Proposed § 108.661 modifies existing draft mark requirements to take into consideration the various configurations of units.

Proposed Part 109 sets forth operating rules which are already applied to mobile offshore drilling units, together with additions which have been made to cover operations peculiar to the offshore oil drilling industry. Included are new operating rules concerning personnel working over the water, crane operations, power industrial truck operation, storage and handling of hazardous materials, and helicopter refueling operations.

This proposal would also amend 46 CFR Subchapter F—Marine Engineering Regulations, to establish requirements for certain industrial systems and components aboard mobile offshore drilling units. Industrial systems and components aboard mobile offshore drilling units are not specifically addressed in existing regulations except in 46 CFR 54.01-16. Significant subjects addressed in this portion of the proposal include the following.

Proposed § 50.15-20(a)(13) provides for Coast Guard recognition of appropriate standards or recommended practices promulgated by the American Petroleum Institute.

Section 54.01-16 has been revised to propose requirements for Class I, II and III pressure vessels installed as components in industrial systems on mobile offshore drilling units, including those used for the storage of compressed gases, including air. Although pressure vessels in these classes which meet the full requirements of Table 54.01-5(b) would still be accepted, the standards proposed in the revised § 54.01-16 are considered sufficient. It should be noted that the postweld heat treatment and minimum joint and radiographic requirements of Table 54.01-5(b) would still apply, but that pressure-relief devices that meet subpart 54.15 would also be required. Class I-L and II-L pressure vessels would continue to be governed by Table 54.01-5(b).

The Coast Guard is of the opinion that the current practice of simply accepting ASME Code stamping could lead to a reduction in the reliability of pressure vessels used in industrial systems below the level required of other pressure vessels on drilling units. The Coast Guard feels that the hazards associated with higher pressures (over 200 p.s.i.) and lower temperatures (below 0°F) must be minimized. This can best be assured by combining the tight material control and design criteria of the ASME Code with those requirements of Table 54.01-5(b) which would be extended to pressure vessels in industrial systems by the proposed revision of § 54.01-16. This revision would also affect pressure vessels used for the storage of compressed gases, including air, by eliminating the current provision which subjects them to plan approval and shop inspection by the Coast Guard. Thus, while the ASME Code has very board application, the specifies outlined in the proposal would clearly define the scope of the Code's applicability. Furthermore, the Coast Guard intends to monitor this proposed pressure vessel acceptance program closely, with a view toward the possible extension of a similar program to all shipboard pressure vessels.

Proposed Subpart 58.60 was developed to address the industrial systems which are installed on mobile offshore drilling units for use exclusively in conducting drilling operations. These systems are not specifically addressed in existing regulations and are generally not constructed to the same standards as vessel machinery systems. The present Coast Guard approach to industrial systems has been inconsistent due to broadly worded exclusions in Parts 54 and 56 of Title 46, CFR Subchapter F—Marine Engineering Regulations.

The industrial systems specifically addressed in the proposed subpart are the cementing system, circulation system (mud pumps, mud piping, shale shaker, desander and degasser), blowout preventor control system, riser and guideline tensioning system, motion compensation system, bulk material (dry cement, barite) storage and handling system, and other pressurized systems necessary to the performance of the design function of the unit.

The proposed regulations would require that the blowout prevention control system meet API RP 53, Recommended Practice for Blowout Protection Equipment Systems.

The proposed regulations would require all industrial piping systems to comply with ANSI B31.3—Refinery Piping, and additionally require that all industrial systems be evaluated in a manner similar to that presented in API RP 14C. This specification is a safety analysis of the impact of a failure in the system on the operation of the system and the unit, on the operations of proximate personnel, and on the ecology. It includes methods of preventing or limiting the effects of failure. It would fill any voids that may exist in the simple application of a standard. The design would be certified by a registered professional engineer as complying with B31.3. The safety analysis would also be certified. All pressure vessels used as components of the system would be required to meet the proposed § 54.01-46. The Coast Guard would reserve the right to spot check or review these systems in their entirety. The Coast Guard would inspect the installation.

The proposal would, for the specified industrial system, assure compliance with known standards, remove the Coast Guard from complete plan approval procedure for these systems, and permit an allowable stress of ⅓ the specified minimum tensile strength, and the utilization of a broader range of materials.

The Coast Guard does not consider it necessary to specify marine engineering standards for other non-pressurized, mechanical or structural industrial systems and components such as the drilling derrick, drawworks, and rotary table. The proposal includes the provision that these systems may comply with standards or specifications not specifically referenced in the regulations. Any standards or specifications used for these systems will be required to be indicated on the plans, or in the specifications, for the unit.

ECONOMIC SUMMARY

This proposed rule has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200) and determined to be a nonmajor proposal. The analysis considered the economic effect on both government and industry. In evaluating the effect on industry it was necessary to consider the effect of the proposal on both existing mobile offshore drilling units and new units that will be constructed under the provisions of the new regulations.

For the approximately 142 existing U.S. units, the total cost of the proposal to industry is estimated at $12,249,000. Since all existing units will be allowed two years to comply with applicable provisions of the proposal, the estimated annual cost is $6,124,500. The following factors were taken into consideration in arriving at the above estimates: preparation and submittal of plans, lifesaving equipment update, firefighting equipment update, load line assignments, preparation of operating manuals, testing of cranes, marine sanitation requirements, and miscellaneous inspection requirements.

It is estimated that ten new U.S. mobile offshore drilling units will be built each year for the next two to three years, although this number may vary depending on U.S. government policy regarding development of the Outer Continental Shelf. For new units, the cost effect of this proposal will be the cost of differences in requirements between the proposal and existing regulations. This cost was estimated at $249,300 per unit or $2,493,000 per year, taking the following factors into consideration: additional plan preparation and submittal, additional equipment (including lifesaving and firefighting), crane certification and testing, helicopter facility requirements, load line assignments, operating manual expansion, requirements for industrial (drilling) systems, and arrangement/construction requirements.

The proposal requires Coast Guard inspection and certification of all mobile offshore drilling units, including approximately 87 existing units not currently under inspection. To accomplish the proposed requirements for all units, additional Coast Guard personnel will be required. Estimated personnel requirements are 18 officers and two civilians at an estimated cost of $654,000 per year. Considering all of the above, the estimated total cost of the proposal is $9,271,500 a year for the first two years and $3,147,000 per year there after.

The major benefit of the proposal will be the establishment of a uniform, comprehensive set of regulations for all types of mobile offshore drilling units operating under the flag of the United States. This will further U.S. efforts at the Intergovernmental Maritime Consultative Organization (IMCO) where the United States is the lead nation in the development of an international code for mobile offshore drilling units. It will also facilitiate the employment of U.S. units on a worldwide basis inasmuch as the coastal nations concerned can be assured that the units meet established safety standards. The proposal adds new or expanded safety requirements for mobile offshore drilling units including requirements for cranes, helicopter facilities, classified areas, stability, lifesaving and firefighting equipment, industrial (drilling) systems and operating rules. It is anticipated that this proposal will result in an improvement in safety in these areas.

DRAFTING INFORMATION

The principal project manager and lawyer involved in the drafting of this rulemaking are: Commander Kenneth F. Bishop, Jr., Project Manager, and Lieutenant Edward J. Gill, Jr., Project Attorney.

In consideration of the foregoing, it is proposed that Chapter 1 of Title 46 of the Code of Federal Regulations be amended as follows:

PART 50—GENERAL PROVISIONS

1. By adding a new paragraph (j) to § 50.01-1 to read as follows:

§ 50.01-1 Authority for regulations.

* * * * *

(j) *Mobile offshore drilling units.* The citation regarding authority to prescribe requirements for mobile offshore units is in Subchapter II of this chapter.

2. By adding a new paragraph (e) to § 50.05-1 to read as follows:

§ 50.05-1 General.

* * * * *

(e) Industrial systems and components on mobile offshore drilling units must meet § 54.01-16 and Subpart 58.60 of this chapter.

3. By adding a new paragraph (b) to § 50.05-10 to read as follows:

§ 50.05-10 Alterations or repairs.

* * * * *

(b) When alterations or repairs are made to a U.S. vessel in a port or place not in the United States, a notice containing details of the proposed alterations or repairs must be submitted to the appropriate Officer in Charge, Marine Inspection.

4. By adding the words ", mobile offshore drilling units," after the words "nautical schoolships" in the first sentence of § 50.05-15(a).

5. By adding new paragraph (a)(13) to § 50.15-20 to read as follows:

§ 50.15-20 Additional standards.

(a) * * *

(13) American Petroleum Institute (API), 1201 L Street, Washington, D.C. 20037.

* * * * *

PART 54—PRESSURE VESSELS

6. By revising § 54.01-16 to read as follows:

§ 54.01-16 Mobile offshore drilling units: pressure vessels for industrial systems.

A Class I, II, or III pressure vessel which is a component in an industrial system under Subpart 58.60 of this chapter must—

(a) Be stamped "U" under Section VIII of the ASME Code;

(b) Meet the postweld heat treatment and the minimum joint and radiographic requirements of Table 54.01-5(b); and

(c) Have pressure-relief devices that meet Subpart 54.15 of this chapter.

NOTE 1.—Class I, II, or III pressure vessels which are components in industrial systems and which meet Table 54.01-5(b) in full will also be accepted.

NOTE 2.—Class I-L and II-L pressure vessels must meet the shop inspection and plan approval requirements of Table 54.01-5(b) and are not accepted under § 54.01-16.

PART 56—PIPING SYSTEMS AND APPURTENANCES

7. By revising § 56.01-1(c) to read as follows:

§ 56.01-1 Scope (replaces 100.1).

* * * * *

(c) Piping for industrial systems on mobile offshore drilling units must meet Subpart 58.60 of this chapter.

8. By adding a new paragraph (d-1) to follow paragraph (d) in § 56.01-10 to read as follows:

§ 56.01-10 Plan approval.

* * * * *

(d-1) Plans of piping for industrial systems on mobile offshore drilling units must be submitted under Subpart 58.60 of this chapter.

* * * * *

9. By adding the words ", Section 108.417 of Subchapter I-A (Mobile Offshore Drilling Units)," after the words "Subchapter H (Passenger Vessels)" in the second sentence of § 56.50-10(b).

10. By striking the words "crew and passenger quarters" in the first sentence of § 56.50-15(h) and inserting the words "accommodation spaces" in place thereof.

11. By adding the footnote "(4)" to follow footnote "(1)" in § 56.50-50(d)(1).

12. By adding the footnote "(3)" to follow footnote "(2)" in § 56.50-50(d)(2).

13. By adding Notes 3 and 4 to follow Notes 1 and 2 in § 56.50-50(d)(2) to read as follows:

§ 56.50-50 Bilge and ballast piping.

(d) * * *

(2) * * *

NOTE 3.—In the calculation for a vessel with more than one hull such as a catamaran, the breadth of the unit is the breadth of one hull.

NOTE 4.—In the calculation for a mobile offshore drilling unit, "L" is reducible by the combined length of spaces that can be pumped by another piping system meeting §§ 56.50-50 and 56.50-55, where "L" is the length of the unit at the waterline.

14. By adding the following two sentences to follow the last sentence in § 56.50-50(e):

"In a vessel with more than one hull, there must be one bilge pump that has an independent bilge suction in each hull. In a column stabilized mobile offshore drilling unit, the independent bilge suction must be from the pumproom bilge."

15. By adding new paragraphs (f)(5) and (6) to § 56.50-50 to read as follows:

§ 56.50-50 Bilge and ballast piping.

* * * * *

(f) * * *

(5) Each vessel with more than one hull must have an emergency bilge suction in each hull.

(6) Each column stabilized mobile offshore drilling unit[1] must have—

(i) An emergency bilge suction in each hull; and

(ii) A remote control for the emergency pump and associated valves that can be operated from the ballast control room.

* * * * *

16. By adding a fourth category of vessel to Table 56.50-50(a) to read as follows:

TABLE 56.50-55(a).—*Power bilge pumps required for self-propelled vessels*

Vessel length, in feet	* * *	Mobile offshore drilling units all waters
180 or more	* * *	2
Below 180 and exceeding 65	* * *	2
65 or less	* * *	2

* * * * *

17. By adding a fourth category of vessel to Table 56.50-55(b)(1), to read as follows:

TABLE 56.50-55(b)(1).—*Bilge pumps required for non-self-propelled vessels*

Type of vessel	Waters navigated	Power pumps[1]	Hand pumps
*	*	*	*
Mobile offshore drilling units.	All waters	2	None.
*	*	*	*

[1] For the purpose of this section, a pumproom is a machinery space on a column stabilized unit.

18. By amending § 56.50-55 by adding new paragraph (a)(6) to follow paragraph (a)(5) and new paragraph (b)(3) to follow paragraph (b)(2) to read as follows:

§ 56.50-55 Bilge pumps.

(a) * * *

(6) Each hull of a vessel with more than one hull such as a catamaran must meet Table 56.50-55(a).

(b) * * *

(3) Each hull of a vessel with more than one hull, such as a catamaran, must meet Table 56.50-55(b).

* * * * *

19. By adding a new paragraph (e)(4) to § 56.50-55 to read as follows:

§ 56.50-55 Bilge pumps.

* * * * *

(e) * * *

(4) Each hull of a vessel with more than one hull must have at least two means for pumping the bilges in each hull. No vessel may operate unless one of these means is available to pump the bilge.

* * * * *

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

20. By amending Subpart 58.03 by adding a new § 58.03-35 to read as follows:

§ 58.03-35 American Petroleum Institute (API).

The standards of the American Petroleum Institute (API)[1] that are referred 3 to in this part are hereby adopted.

21. By adding new paragraphs (c) and (d) to § 58.10-10 to read as follows:

§ 58.10-10 Diesel engine installations.

* * * * *

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[1] See § 50.15-20(a)(13) for the address of API.

(c) A diesel engine air intake on a mobile offshore drilling unit must not be in a hazardous location.[1]

(d) A diesel engine exhaust on a mobile offshore drilling unit must not discharge into a hazardous location.[1]

22. By adding a new paragraph (c) (4) and revising paragraph (d) in § 58.10–15 to read as follows:

§ 58.10–15 Gas turbine installations.

* * * * *

(c) * * *

(4) A gas turbine exhaust on a mobile offshore drilling unit must not discharge in a hazardous location.[1]

(d) *Air inlets*. Air inlets on a mobile offshore drilling unit must be designed as follows:

(1) Each air inlet must have means to protect the safety of life and to prevent the entrance of harmful foreign material, including water, into the system.

(2) A gas turbine air inlet must not be in a hazardous location.[1]

* * * * *

23. By amending Subchapter F by adding a new Subpart 58.60 to read as follows:

Subpart 58.60—Industrial Systems and Components on Mobile Offshore Drilling Units (MODU)

Sec.
58.60–1 Applicability.
58.60–3 Pressure vessel.
58.60–5 Industrial systems: locations.
58.60–7 Industrial systems: piping.
58.60–9 Industrial systems: design.
58.60–11 Analyses, plans, diagrams and specification: submission.
58.60–13 Inspection.

§ 58.60–1 Applicability.

This subpart applies to the following industrial systems on board a mobile offshore drilling unit (MODU):

(a) Cementing systems.

(b) Circulation systems, including—

(1) Pipes and pumps for mud;

(2) Shale shakers;

(3) Desanders; and

(4) Degassers.

(c) Blow out preventor control systems.

(d) Riser and guideline tensioning systems.

(e) Motion compensation systems.

(f) Bulk material storage and handling systems.

(g) Other pressurized systems designed for the MODU's industrial operations.

§ 58.60–3 Pressure vessel.

A pressure vessel that is a component in an industrial system under this subpart must meet § 54.01–16.

§ 58.60–5 Industrial systems: locations.

An industrial system under this subpart must not be in a space that is—

(a) Concealed; or

(b) Inaccessible to industrial personnel.

§ 58.60–7 Industrial systems: piping.

The piping for industrial systems under this subpart must meet ANSI B31.3, except that blow out preventor control systems must also meet API RP 53, Recommended Practice for Blowout Protection Equipment Systems.

§ 58.60–9 Industrial systems: design.

Each system under this subpart must be designed and analyzed under API RP 140, Analysis, Design, Installation and Testing of Basic Surface Safety Systems on Offshore Production Platforms.

§ 58.60–11 Analyses, plans, diagrams and specifications: submission.

(a) Each industrial system must be analyzed by a registered professional engineer to certify that the system has been designed in accordance with applicable standards.

(b) The certification must—

(1) Appear on all diagrams and analyses; and

(2) Be submitted under § 50.20–5 of this chapter.

(c) Standards or specifications for non-pressurized, mechanical or structural systems, and components such as derricks, drawworks, and rotary tables which comply with standards or specifications not referenced in this subchapter must be placed on the plans or in the specifications of the unit.

§ 58.60–13 Inspection.

An industrial system is accepted by the Coast Guard if the inspector finds—

(a) The system meets this subpart;

(b) There are guards, shields, insulation or similar devices for protection of personnel; and

(c) The system is not manifestly unsafe.

PART 61—PERIODIC TESTS AND INSPECTIONS

24. By adding the words "mobile offshore drilling units," after the words "aboard ships," in § 61.10–1(a).

25. By adding the words "pressure vessels that are accepted under § 54.01–16" after the words "shop inspection and" in the first sentence of § 61.10–5(b).

26. By adding the words "Subchapter I-A (Mobile Offshore Drilling Units)," after the words "(Cargo and Miscellaneous Vessels)," in § 61.10–5(h).

27. By adding a new paragraph (b) (4) in § 61.20–15 to read as follows:

§ 61.20–15 Tailshaft survey.

* * * * *

(b) * * *

(4) A mobile offshore drilling unit that has a tailshaft is not subject to specified periods for drawing the tailshaft if the tailshaft is—

(i) Drawn for inspection during regularly scheduled drydocking; or

(ii) Regularly inspected in a manner acceptable to the Commandant.

28. By adding a new Subchapter II to read as follows:

SUBCHAPTER I-A—MOBILE OFFSHORE DRILLING UNITS

PART 107—INSPECTION AND CERTIFICATION

Subpart A—General

107.01 Purpose of subchapter.
107.111 Definitions.
107.113 Industrial personnel.
107.115 Seagoing barges.

Subpart B—Inspection and Certification

107.201 Purpose.
107.211 Original certificate of inspection.
107.215 Biennial inspection for certification.
107.219 Permit to proceed to another port for repairs.
107.223 Temporary certificate of inspection: period in effect.
107.227 Certificate of inspection amendment.
107.231 Inspection for certification; lifesaving equipment; fire fighting equipment; cranes; miscellaneous; installation tests; other tests and inspections.
107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers abd fixed fire-extinguishing systems.
107.239 Testing of lifeboats, lifeboat launching systems, and davit launched life raft systems.
107.243 Testing of winch electrical control apparatus for lifeboats.
107.247 Testing of gravity davits.
107.251 Testing of the fire main.
107.257 Testing of fire hoses.
107.258 Crane certification.
107.259 Crane inspection and testing.
107.260 Rated load test for cranes.
107.261 Drydock or special examination.
107.265 Special examination in lieu of drydocking for column stabilized units.
107.267 Special examination in lieu of drydocking for self elavating un.
107.269 Reinspection.
107.271 Inspection: alternations.
107.275 Other inspections.
107.279 Certificate of inspections: failure to meet requirements.

Subpart C—Plan Approval

107.301 Purpose.
107.305 Plans and information; general; hull structure; stability; fire control; marine engineering; electrical engineering; lifesaving equipment; personnel accommodations; construction portfolio; operating manual.
107.309 Crane plans and information.
107.317 Addresses for submittal of plans, specifications, and calculations.

Subpart D—Certificates Under International Convention for Safety of Life at Sea, 1960

107.401 Purpose and definition.
107.405 Safety equipment certificate.
107.409 Safety construction certificate.
107.413 Exemption certificate.

PART 108—DESIGN AND EQUIPMENT

Subpart A—General

108.103 Equipment not required on a unit.
108.105 Substitutes for required fittings, material, apparatus, and equipment, arrangements and tests.
108.109 Classification society standards.

Subpart C—Construction and Arrangement

HULL STRUCTURE

108.113 Structural standards.
108.114 Appliances for watertight and weathertight integrity.
108.115 Sliding watertight doors.

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[1] Section 111.105 of this chapter contains the requirements for Class I hazardous locations.

FIRE PROTECTION: GENERAL

108.123 Isolation of combustible material.
108.127 Storage lockers for combustibles.

STRUCTURAL FIRE PROTECTION

108.131 Definitions.
108.133 Hull superstructure, structural bulkheads, decks, and deckhouses.
108.135 Boundary bulkheads, decks of galleys, and combustible material lockers.
108.137 Bulkhead and deck separations of accommodation spaces.
108.139 Boundary bulkheads and decks of a space containing emergency power.
108.141 Boundary bulkheads and decks between the emergency power source and service generators.
108.143 Accommodation space.
108.145 Hatches and tonnage openings.
108.147 Certain paints prohibited.

MEANS OF ESCAPE

108.151 Two means required.
108.153 Location of means of escape.
108.155 Type of means of escape prohibited.
108.157 Locked doors.
108.159 Stairway width.
108.160 Vertical ladder width.
108.161 Dead end corridors.
108.165 Access to lifeboats and liferafts.
108.167 Weather deck ladders.

VENTILATION

108.181 Ventilation for enclosed spaces.
108.185 Ventilation for enclosed classified locations.
108.187 Ventilation for brush type electrical motors in classified spaces.
108.193 Accommodation spaces: location: all units.
108.195 Accommodation spaces: location: surface type units.
108.197 Accommodation spaces: construction: all units.
108.199 Accommodation spaces: sleeping spaces: arrangement.
108.201 Accommodation spaces: sleeping spaces: size.
108.203 Accommodation spaces: sleeping spaces: berths and lockers.
108.205 Accommodation spaces: wash spaces; toilet spaces; and shower spaces.
108.207 Accommodation spaces: messrooms.
108.209 Accommodation spaces: hospital space.
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AUTHORITY: Sec. 2, 87 Stat. 418 (46 U.S.C. 86), sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367), R.S. 4405, as amended (46 U.S.C. 375), R.S. 4423, as amended (46 U.S.C. 400), R.S. 4429, as amended (46 U.S.C. 407), R.S. 4430, as amended (46 U.S.C. 408), 88 Stat. 423 (46 U.S.C. 411), R.S. 4434, as amended (46 U.S.C. 416), sec. 1, 73 Stat. 475 (46 U.S.C. 481), sec. 4, 67 Stat. 462 (43 U.S.C. 1333(e)); 49 CFR 1.46 (b) and (n)(6).

PART 107—INSPECTION AND CERTIFICATION

Subpart A—General

§ 107.01 Purpose of subchapter.

This subchapter prescribes rules for the design, construction, equipment, inspection and operation of mobile offshore drilling units operating under the U.S. flag.

§ 107.111 Definitions.

As used in this subchapter:

"Approved" means approved by the Commandant.

"Column stabilized unit" means a unit with the main deck connected to the underwater hull or footings by columns or caissons.

"Commandant" means the Commandant of the Coast Guard or his authorized representative.

"District Commander" means an officer of the Coast Guard who commands a Coast Guard District described in 33 CFR Part 3 or his authorized representative.

"Headquarters" means Office of the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

"Industrial systems and components" means any machinery or equipment on board a mobile offshore drilling unit for use in the industrial function of the unit.

"International service" means operation of a mobile offshore drilling unit on an international voyage or in waters under the jurisdiction of foreign nations or the United Nations.

"Marine inspector" means any person designated by an Officer in Charge, Marine Inspection, as a marine inspector.

"Master" or "Person in charge" means a person designated under § 109.107.

"Mobile offshore drilling unit" or "unit" means a vessel, except a public vessel of the United States, capable of engaging in drilling operations for the exploration or exploitation of subsea resources that is—

(1) Seagoing and 300 or more gross tons and self-propelled by motor;

(2) Seagoing and 100 or more gross tons and non-self-propelled; or

(3) More than 65 feet in length and propelled by steam.

"Non-self-propelled unit" means a unit which is not self-propelled.

"Officer in Charge, Marine Inspection" means an officer of the Coast Guard who commands a Marine Inspection Zone described in 33 CFR Part 3 or his authorized representative.

"Self-elevating unit" means a unit with movable legs capable of raising its hull above the surface of the sea.

"Self-propelled unit" means a unit that has propulsion machinery that provides for independent underway navigation.

"Surface type unit" means a unit with a ship shape on barge type displacement hull of single or multiple hull construction intended for operation in the floating condition.

"Watertight" means designed and constructed to withstand a static head of water without any leakage, except that "watertight equipment" means enclosed equipment so constructed that a stream of water from a hose (not less than 1 inch in diameter) under head of about 35 feet from a distance of about 10 feet, and for a period of 5 minutes, can be played on the apparatus without leakage.

"Weathertight" means that water will not penetrate into the unit in any sea condition, except that "weathertight equipment" means equipment so constructed or protected that exposure to a beating rain will not result in the entrance of water.

§ 107.113 Industrial personnel.

Industrial personnel are all persons, exclusive of the required crew as set forth in the Certificate of Inspection, carried on board a mobile offshore drilling unit for the sole purpose of carrying out the industrial business or functions of the unit.

§ 107.115 Seagoing barges.

All non-self-propelled units of 100 gross tons and over that proceed on voyages on the high seas or ocean are subject to inspection and certification as seagoing barges.

Subpart B—Inspection and Certification

§ 107.201 Purpose.

This subpart prescribes rules for the—

(a) Original inspection and issuance of an original Certificate of Inspection required by 46 U.S.C. 367, 391, 395, and 399;

(b) Biennial inspection for certification and renewal of a Certificate of Inspection required by 46 U.S.C. 367, 391, 395, and 399;

(c) Reinspection required by 46 U.S.C. 435;

(d) Inspection after an accident required by 46 U.S.C. 435; and

(e) Inspection of repairs or alterations, or both, required by 46 U.S.C. 435;

(f) Amendments to Certificates of Inspection; and

(g) Issuance of Temporary Certificate of Inspection; and

(h) Issuance of Permit To Proceed to Another Port for Repairs.

§ 107.211 Original certificate of inspection.

(a) The owner or builder of a unit applies for an inspection for an original Certificate of Inspection by submitting before construction is started—

(1) A completed Application for Inspection of U.S. Vessel, Form CG–3752, to the Officer in Charge, Marine Inspection, of the marine inspection zone in which the unit is to be constructed; and

(2) Plans and information indicating the proposed arrangement and construction of the unit to the Coast Guard in accordance with Subpart C of this Part.

(b) An original Certificate of Inspection is issued if the Coast Guard finds, during the inspections conducted while the unit is being constructed, that a unit contracted for on or after (effective date) meets § 107.231.

(c) An original Certificate of Inspection is issued if the Coast Guard finds that an uncertified unit contracted for before (effective date) meets the requirements of this Subchapter and Navigation and Vessel Inspection Circular, Inspection of Existing Mobile Offshore Drilling Units. Existing structure, arrangements, materials, equipment, and facilities will be considered satisfactory so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs and alterations may be made to the same standards as originally used. Major alterations and conversions shall be in compliance with the provisions of each subpart of this part to the satisfaction of the Officer in Charge, Marine Inspection.

(d) A Certificate of Inspection expires 24 months after the date of issue.

§ 107.215 Biennial inspection for certification.

(a) The master, owner, or agent of a certificated unit may apply for a biennial inspection for the renewal of a Certificate of Inspection by submitting a completed Application for Inspection of U.S. Vessel, Form CG–3752, to the Officer in Charge, Marine Inspection, in or nearest to the port where the inspection will be made.

(b) The master, owner, or agent of a certificated unit operating in international service may apply for renewal of a Certificate of Inspection by submitting a completed Application for Inspection of U.S. Vessel Form CG–3752, to the appropriate Officer in Charge, Marine Inspection, at least 90 days before the expiration date that appears on the unit's unexpired Certificate of Inspection.

(c) A Certificate of Inspection is renewed if the Coast Guard finds, during the biennial inspection, that—

(1) A unit contracted for on or after (effective date), meets the requirements of this Subchapter; or

(2) A unit contracted for before (effective date), and issued a Certificate of Inspection under Subchapter I of this Chapter, meets the requirements of Navigation and Vessel Inspection Circular, Inspection of Existing Mobile Offshore Drilling Units.

§ 107.219 Permit to proceed to another port for repairs.

(a) If a unit fails to meet the requirements in § 107.231, and the Coast Guard withholds reissuance of a Certificate of Inspection, or suspends an unexpired Certificate of Inspection, as described in § 107.279, a Permit to Proceed to Another Port for Repairs (Form CG–948) is issued by the Coast Guard if—

(1) The owner, master, person in charge, or agent makes a written request for a permit to the Officer in Charge, Marine Inspection, that includes—

(i) The reason the permit is requested;

(ii) The port in which the repairs are to be made; and

(iii) The period of time for the voyage;

(2) The Officer in Charge, Marine Inspection finds that the unit is seaworthy for the voyage.

(b) A Permit to Proceed to Another Port for Repairs is in force for the period of the voyage to the port in which the repairs are to be made.

§ 107.223 Temporary certificate of inspection: period in effect.

A Temporary Certificate of Inspection, issued under 46 U.S.C. 399, is effective until a Certificate of Inspection is issued to the unit.

§ 107.227 Certificate of inspection amendment.

The Coast Guard issues a Certificate of Inspection Amendment, Form CG–858, to a certificated unit if a requirement for equipment and data listed on the unexpired Certificate of Inspection is changed.

§ 107.231 Inspection for certification.

A unit is issued a Certificate of Inspection under § 107.211 or § 107.215(c) if the inspector finds the following:

(a) The unit and its equipment comply with—

(1) Part 108 of this subchapter;

(2) Subchapter J of this chapter, Electrical Engineering;[2]

(3) Subchapter F of this chapter, Marine Engineering;[3]

(4) Subchapter E of this chapter, Load Lines;

(5) Part 64 or Part 98 of this chapter, or both, if the unit carries marine portable tanks or portable tanks;

(6) The vessel design and equipment requirements of the Pollution Prevention Regulations (33 CFR Part 155, Subpart B);

(7) the Rules of the Road requirements for the waters in which the unit navigates, contained in—

(i) 33 U.S.C. Chapters 3, 4, 5, or 21; and

(ii) 33 CFR Parts 80, 85, or 86.

LIFESAVING EQUIPMENT

(b) The air tanks of each lifeboat are airtight.

(c) Each lifeboat, each lifeboat launching system, and each davit launched liferaft launching system passes the test in § 107.239.

(d) Each winch electrical control apparatus for lifeboats meets the testing requirements in § 107.243.

(e) Each inflatable liferaft is serviceable and meets the servicing requirement in § 160.051–6 of this chapter.

(f) Each hydraulic release for inflatable liferafts meets the periodic servicing and testing requirements in § 160.062–4 of this chapter.

(g) Each gravity davit meets the testing requirements in § 107.247.

(h) Each life preserver is serviceable.

(i) A life preserver that is cleaned or repaired meets Subpart 160.006 of this chapter.

(j) Each buoyant work vest is serviceable.

FIRE FIGHTING EQUIPMENT

(k) Each hand portable fire extinguisher and each semiportable fire extinguisher is serviced, if required, in accordance with § 107.235(a).

(l) Each fixed fire-extinguishing system is serviced, if required, in accordance with § 107.235(b).

(m) Each fire main system meets the testing requirements in § 107.251.

(n) Each fire hose meets the testing requirements in § 107.257.

CRANES

(o) The rated load test for cranes in § 107.260 is met.

(p) Each crane is inspected and tested in accordance with § 107.259.

MISCELLANEOUS

(q) Each sliding watertight door is operative.

(r) Each valve with a remote control is operative.

(s) Each means of escape on the unit is safe for the intended service.

(t) There is not an accumulation of oil which might create a fire hazard on tank tops, decks, in drip pans, machinery spaces, and pumproom bilges.

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[2] Requirements for industrial systems and components are in Subpart 111.107 of this Chapter.

[3] Requirements for industrial systems and components are in Subpart 58.60 of this Chapter.

(u) Each accommodation space is sanitary.

(v) The unit meets the drydocking requirement in § 107.261 or the special examination in § 107.265 or § 107.267.

(w) The unit meets the equipment and data information requirements on its certificate of inspection.

(x) The unit that engages in international voyages has on board the appropriate certificates issued under 47 U.S.C. 360:

(1) Safety Radiotelegraph Certificate or Safety Radiotelephony Certificate.

(2) Exemption Certificate, if an exemption has been granted.

INSTALLATION TESTS

(y) Each lifeboat, lifeboat davit, and liferaft winch meets the installation tests in § 94.35–5(b) of this chapter.

(z) Each davit launched life raft meets the installation test in § 95.37–5 of this chapter.

(aa) Piping for each carbon dioxide extinguishing system meets the installation test in § 108.449 of this chapter.

(bb) Each sliding watertight door meets the installation tests in § 163.001–6(b) of this chapter.

OTHER TESTS AND INSPECTIONS

(cc) The unit and its equipment meet any other test or inspection deemed necessary by the inspector to determine if they are suitable for the service in which they are to be employed.

§ 107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers and fixed fire-extinguishing systems.

(a) To meet the servicing requirements in § 107.231(k), each hand portable fire extinguisher and each semi-portable fire extinguisher on board the unit must be serviced by—

(1) Discharging each extinguisher containing soda acid, cleaning each hose and the insides of the extinguisher, and recharging;

(2) Discharging each extinguisher containing foam, cleaning each hose and the insides of the extinguisher, and recharging;

(3) Discharging each pump tank extinguisher containing water or antifreeze, cleaning each base and the insides of the extinguisher, and recharging;

(4) Removing the pressure cartridge of each cartridge operated extinguisher and replacing the cartridge if the end is punctured, draining the water, antifreeze, or solution from the extinguisher, cleaning each hose and the insides of the extinguisher, and recharging;

(5) Recharging the cylinder of each carbon dioxide extinguisher, if the weight loss is more than 10 percent of the weight of the charge, and cleaning each hose and each nozzle;

(6) Removing the pressure cartridge of each cartridge operated dry chemical extinguisher, cleaning each hose and each nozzle of the extinguisher, and recharging; and

(7) Weighing each stored pressure type dry chemical extinguisher, adding dry chemicals if not fully charged, and pressurizing to the .operating range.

NOTE.—All carbon dioxide cylinders and discharge hoses of semi-portable carbon dioxide systems must be tested and marked in accordance with § 147.04–1 of this Chapter.

(b) To meet the servicing requirements in § 107.231(1), each fixed fire-extinguishing system must be serviced by—

(1) Recharging the cylinders of each carbon dioxide system, if the weight loss is more than 10% of the weight of the charge;

(2) Testing each foam system, except premix systems by—

(i) Discharging foam for approximately 15 seconds form a nozzle designated by the marine inspector;

(ii) Discharging water from all other lines and nozzles; and

(iii) Taking a sample of the foam liquid and submitting it for determination of its specific gravity, PH, percentage of water dilution, and solid content, and certification as a suitable firefighting foam;

(3) Removing the pressure cartridge of each premix aqueous film forming foam system and replacing the cartridge if the seal is punctured, sampling the premix solution in accordance with the manufacturer's instructions, and replacing cylinders that are discharged.

§ 107.239 Testing of lifeboats, lifeboat launching systems, and davit launched life raft systems.

To meet the requirements in § 107.231 (c)—

(a) Each lifeboat must be loaded to the deadweight equivalent of the allowed capacity, lowered into the water, and released from the falls;

(b) The launching equipment for each davit launced life raft must be tested by suspending a test weight from the releasing hook and lowering the weight to near the water; and

(c) The launching equipment for each lifeboat or davit launched life raft must be tested with a weight equal to the weight of the lifeboat or raft plus the full complement of persons and equipment.

NOTE.—In making these tests deadweight is equivalent to 165 pounds for each person in the allowed capacity.

§ 107.243 Testing of winch electrical control apparatus for lifeboats.

To meet the requirement in § 197.231 (d), each winch electrical control apparatus for lifeboats must be opened and inspected.

§ 107.247 Testing of gravity davits.

To meet the requirements in § 107.231 (q), each lifeboat on gravity davits must be swung out and lowered from any stopped position by releasing the brake on the lifeboat winch.

§ 107.251 Testing of the fire main.

To meet the requirements in § 107.231 (m), each fire main system must be opened and the pressure checked at—

(a) The most remote outlet; and

(b) The highest outlet.

§ 107.257 Testing of fire hose.

To meet the requirements in § 107.231 (n), each fire hose must be subjected to a test pressure equivalent to the maximum pressure to which it may be subjected during operation. However, each fire hose must be subjected to a pressure of at least 100 p.s.i.g.

§ 107.258 Crane certification.

(a) The Coast Guard may accept current certificates issued by approved organizations as evidence of condition and suitability of cranes. The following organizations are approved by the Coast Guard as crane certifying authorities:

(1) American Bureau of Shipping, 45 Broad St., New York, N.Y. 10004.

(2) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, N.Y. 10004.

(b) Crane certification must be based upon—

(1) A review of plans submitted under § 107.309; and

(2) The continuing program of tests and inspections in § 107.258.

(c) Each load test and inspection by the certifying authority must be recorded in the unit's Crane Record Book . required in § 109.437.

§ 107.259 Crane inspection, and testing.

(a) To meet the requirements in § 107.231(p), each crane must be inspected and tested in accordance with Section 3 of the American Petroleum Institute (A.P.I.) Recommended Practice for Operation and Maintenance of Offshore Cranes, API RP 2D, First Edition, October 1972, except that the rated load test must be performed in accordance with § 107.260.

(b) The tests and inspections must be conducted by—

(1) A Coast Guard marine inspector; or

(2) The American Bureau of Shipping (A.B.S.), or the International Cargo Gear Bureau, Inc. (I.C.G.B.) for cranes under certification by these organizations.

(c) If the tests and inspections are conducted by the A.B.S. or the I.C.G.B. the surveyor shall certify that the tests and inspections were conducted in accordance with the A.P.I. specification.

§ 107.260 Rated load test for cranes.

(a) To meet the requirements in § 107.231(o), each crane must meet the following rated load test at the usual boom angle employed in material transfers over the side of the unit:

Rated load of assembled gear	*Proof load*
Less than or equal to 20 tons.	25 percent in excess.
Greater than 20 tons but less than or equal to 50 tons.	5 tons in excess.
Greater than 50 tons.	10 percent in excess.

(b) The weight of the hook, hook blocks, slings, rib, and other rigging, except the hoist rope, must be considered part of the load for the rated load test.

(c) The rated load test must be performed—

(1) When the crane is installed;

(2) Each 48 months; and

(3) After repairs or alteration to any structural component of the crane.

§ 107.261 Drydock or special examination.

(a) Each unit must at least once during each 24 month period after it is issued a Certificate of Inspection be—

(1) Drydocked in the presence of a Coast Guard inspector;

(2) If a unit is colunm-stabilized, specially examined in accordance with § 107.265 in the presence of a Coast Guard inspector; or

(3) If a unit is self-elevating, specially examined in accordance with § 107.267 in the presence of a Coast Guard inspector.

(b) The master, person in charge, owner, or agent of a certificated unit must notify the appropriate Officer in Charge, Marine Inspection before the unit is drydocked, or specially examined.

(c) The master, person in charge, owner, or agent of a certificated unit operating in international service must notify the appropriate Officer in Charge, Marine Inspection at least 90 days before the unit is drydocked or specially examined under § 107.265.

§ 107.265 Special examination in lieu of drydocking for column stabilized units.

(a) A column stabilized unit must be specially examined in accordance with a plan—

(1) Submitted in accordance with paragraph (b); and

(2) Accepted by the Coast Guard.

(b) To meet the requirements in paragraph (a), the owner or operator of the unit must submit a plan to the Coast Guard that provides the methods used to determine the condition of the hull and that contains the following information:

(1) The planned location where the unit is to be examined.

(2) The draft at which the unit is to be examined.

(3) The names of the diver or diving company selected for the examination.

(4) The method of visual presentation for the examination.

(5) The method used to clean the underwater portion of the hull.

(6) The method and location of gauging the underwater portion of the hull.

(7) The number of underwater hull fittings and number of compartments to be opened.

(8) The underwater high stress areas and the welds in those areas to be examined.

§ 107.267 Special examination in lieu of drydocking for self-elevating units.

(a) A self-elevating unit must be specially examined in accordance with a plan—

(1) Submitted in accordance with paragraph (b); and

(2) Accepted by the Coast Guard.

(b) To meet the requirements in paragraph (a), the owner or operator of the unit must submit a plan to the Coast Guard that provides for—

(1) Examination of the unit's hull while it is in the elevated position; and

(2) Examination of the supporting mat, spud cans, or footings while the unit is afloat.

(c) The plan required in paragraph (b) must contain the following information:

(1) The planned location where the unit is to be examined.

(2) The methods to be used to conduct the hull examination.

(3) The method of visual presentation for examination of the underwater components.

(4) The methods of determining the condition of the underwater components.

(5) The underwater high stress areas and the welds in those areas that are to be examined.

(6) The names of the diver or diving company selected for the examination.

§ 107.269 Reinspection.

The Coast Guard reinspects a unit within the period between the 10th and 14th months after the month in which the certificate is issued to determine if the unit meets the requirements in § 107.231, except § 107.231 (y), (z), (aa), and (bb).

§ 107.271 Inspection: alterations.

After plans are approved for alterations affecting the safety of the unit, the Coast Guard conducts inspections of the—

(a) Hull;

(b) Machinery; or

(c) Equipment.

§ 107.275 Other inspections.

When the Coast Guard receives the report required in § 109.411 or § 109.425, the Coast Guard conducts the following inspections of a unit to determine if the unit meets the requirements under which it was issued its original Certificate of Inspection:

(a) An inspection after an accident.

(b) An inspection after a defect is found that affects—

(1) The seaworthiness of the unit; or

(2) The safety or efficiency of a lifesaving device, or firefighting device.

(c) An inspection of repairs made because of an accident or a defect.

§ 107.279 Certificate of inspection: failure to meet requirements.

If a unit fails to meet the requirements in § 107.231, the Coast Guard may—

(a) Withhold issuance of an original Certificate of Inspection after an original inspection for certification, until the unit meets the requirements in § 107.231;

(b) Withhold renewal of a Certificate of Inspection after a biennial inspection for certification until the unit meets the requirements in § 107.231, except § 107.231 (y), (z), (aa), and (bb);

(c) Suspend an unexpired certificate of inspection after a reinspection, until the unit meets the requirements in § 107.231, except § 107.231 (y), (z), (aa), and (bb);

(d) Revoke an unexpired Certificate of Inspection after a reinspection if the unit operates without complying with Coast Guard orders to correct unlawful conditions;

(e) Revoke or suspend an unexpired Certificate of Inspection;

(f) Withhold renewal of safety equipment certificate;

(g) Withhold renewal of safety equipment certificate;

(h) Suspend an unexpired safety equipment certificate;

(i) Revoke an unexpired safety equipment certificate; and

(j) Withhold, suspend, or revoke an exemption certificate.

Subpart C—Plan Approval

§ 107.301 Purpose.

This subpart prescribes procedures for submitting plans and specifications for plan approval and describes the information that must be submitted.

§ 107.305 Plans and information.

Each applicant for approval of plans must submit three copies of each of the following generally described plans, specifications, details, and structural calculations showing the construction, arrangement, required equipment, and safety features of the unit.

GENERAL

(a) Specifications.

(b) General arrangement plan of decks, holds, inner bottoms, etc. including inboard and outboard profile.

HULL STRUCTURE [*]

(c) *Inner bottom plating and framing.

(d) *Midship section.

(e) *Shell plating and framing.

(f) *Stern, stern frame, and rudder.

(g) *Structural deck plans for strength decks.

(h) *Pillars and girders.

(i) *Watertight and oiltight bulkheads.

(j) *Foundations for main machinery and boilers.

(k) *Arrangement of ports, doors, and airports in shell plating.

(l) *Hatch coamings and covers in weather and watertight decks.

(m) *Details of watertight doors and operating gear.

(n) *Scuppers and drains penetrating shell plating.

(o) Arrangement of cranes.

(p) For self-elevating units, column stabilized units, and units with special hull configuration, structural calculations and plans showing special structural features.

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[*] The asterisk(*) indicates items that are approved by the American Bureau of Shipping for vessels classed by it. Items approved by the American Bureau of Shipping are generally accepted as satisfactory unless the law or Coast Guard regulations contain requirements that are not covered by the American Bureau of Shipping.

STABILITY

(q) Lines.

(r) Curves of form and cross curves of stability.

(s) Capacity plan showing capacities and vertical, longitudinal, and transverse centers of gravity of stowage spaces and tanks.

(t) Tank sounding tables.

(u) Draft mark locations.

(u-1) Intact stability and damage stability data.

FIRE CONTROL

(v) General arrangement plans showing, for each deck, the control stations, fire sections enclosed by fire resisting bulkheads, alarm and extinguishing systems, fire extinguishers, means of access to compartments and other decks, and the ventilation system, including location of ventilation shut downs, positions of dampers, and the numbers identifying each system.

(w) Ventilation diagram, including dampers and other fire control features.

(x) Details of fire alarm systems.

(y) Details of fixed fire extinguishing systems.

MARINE ENGINEERING

(z) Plans required for marine engineering equipment and systems by Subchapter F of this chapter.

ELECTRICAL ENGINEERING

(aa) Plans required for electrical engineering equipment and systems by Subchapter J of this chapter.

LIFE SAVING EQUIPMENT

(bb) The location and arrangement of each life saving system including each embarkation deck, showing each overboard discharge, and projections in the way of launching lifeboats and liferafts.

(cc) The weight of each lifeboat when fully equipped and loaded.

(dd) Working loads of davits and winches.

(ee) Types and sizes of falls.

(ff) Manufacturer's name and identification of each item of equipments.

PERSONNEL ACCOMMODATIONS

(gg) Arrangement plans showing each accommodation space, ventilation, and means of escape.

CONSTRUCTION PORTFOLIO[5]

(hh) A construction portfolio that documents the areas where high or higher strength special steels are used in the hull construction of any unit and provides sufficient information to enable quality repairs to be made. The portfolio must contain the following:

(1) Structural plans showing areas incorporating the special steels. A simplified steel plan may be included in the portfolio if it adequately defines the areas of steel application.

(2) A list of special steels that conform to ABS or ASTM specifications. For steels that do not conform to ABS or ASTM specifications, complete specifications, including chemical and physical properties and special testing and heat treating.

(3) Each approved weld procedure for the fabrication of each structure using special steel and each approved weld test procedure.

OPERATING MANUAL

(ii) The operating manual required in § 109.121.

§ 107.309 Crane plans and information.

(a) Three copies of each of the following must be submitted:

(1) Stress and arrangement diagrams, bill of materials, and supporting calculations for all structural components listed in API Spec. 2C, Second Edition, February 1972 (with supplement 2).

(2) Drawings of foundations and substructures with supporting calculations for support and stability of each crane.

(3) Plans showing the installation of the safety features required in § 108.601.

(4) Drawing of the means provided to stop motion and set brakes during a power failure.

NOTE: These plans may be submitted to the Coast Guard, if the crane is not certified. If the crane is to be certified, four copies must be sent to the American Bureau of Shipping or the International Cargo Gear Bureau.

(b) In addition to the plans and information required in paragraph (a), the following plans and information must be submitted to the Coast Guard only:

(1) One-line diagrams of the electric power circuits of the electric power crane overload protection required in Subpart 111.50 of this chapter.

(2) Drawings of the hydraulic control system, with a bill of materials, if the system is—

(i) Used for hoisting and raising and lowering the boom; and

(ii) Not designed to be fail safe in accordance with Subpart 58.30 of this chapter.

(3) Drawing of pneumatic control systems, with a bill of materials, for systems designed for an air pressure of greater than 150 p.s.i.g.

§ 107.317 Addresses for submittal of plans, specifications, and calculations.

The copies of each plan, specification, and calculation required under § 107.305 and § 107.309 must be submitted to one of the following:

(a) The Officer in Charge, Marine Inspection, in the zone in which the unit is to be built or altered.

(b) One of the following field technical offices:

(1) Commander(mmt), 3rd Coast Guard District, Governors Island, New York, NY 10004, for the geographical area covered by the 1st and 3rd Coast Guard Districts.

(2) Commander(mmt), 5th Coast Guard District, Federal Bldg., 431 Crawford St., Portsmouth, VA 23705.

(3) Commander(mmt), 8th Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, for the geographical area covered by the 2nd, 7th, and 8th Coast Guard Districts.

(4) Commander(mmt), 9th Coast Guard District, 1240 East 9th St., Cleveland, OH 44199.

(5) Commander(mmt), 12th Coast Guard District, 630 Sansome St., San Francisco, CA 94126, for the geographical area covered by the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

(c) The American Bureau of Shipping, (ABS) 45 Broad St., New York, NY 10004.

NOTE.—Only the plans indicated with an asterisk in § 107.305 for a unit classed by the ABS may be submitted to the ABS.

(d) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, NY 10004.

NOTE.—Only the plans required in § 107.309 may be submitted to the International Cargo Gear Bureau.

Subpart D—Certificates Under International Convention for Safety of Life at Sea, 1960

§ 107.401 Purpose and definition.

(a) The International Convention for Safety of Life at Sea, 1960, requires one or more of the certificates described in this subpart to be carried on self-propelled vessels of 500 gross tons or over engaged in international voyages. This subpart prescribes rules for the issuance of these certificates.

(b) "Internationl voyage" has the same meaning as stated in Regulation 2(d) of Part A, Chapter I in the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60), which is: "a voyage from a country to which the present Convention applies to a port outside such country, or conversely; and for this purpose every territory for the international relations of which a Contracting Government is responsible or for which the United Nations are the administering authority is regarded as a separate country." The Coast Guard has interpreted this definition to include—

(1) A voyage from a country to which SOLAS 60 applies, to a port outside that country or the reverse;

(2) A voyage from any territory, including the Commonwealth of Puerto Rico, the Canal Zone, all possessions of the United States, and all lands held by the United States under a protectorate or mandate, whose international relations are the responsibility of a contracting SOLAS 60 government, or which is administered by the United Nations, to a port outside that territory or the reverse; or

(3) a voyage between the contiguous states of the United States and the states of Hawaii or Alaska or between the states of Hawaii and Alaska. The Coast

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[5] This portfolio may be included in the operating manual required in § 109.121, and a precautionary statement is written on the certificate of Inspection.

Guard has interpreted this definition to not include a "Great Lakes voyage" which means a voyage solely on the Great Lakes of North America and the St. Lawrence River west of a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd Meridian.

§ 107.405 Safety equipment certificate.

(a) A self propelled unit of at least 500 gross tons that engages in international voyages is issued a safety equipment certificate if the inspector issues it a certificate of inspection under § 107.211 or § 107.215 and it meets Chapter 3 of the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

(b) A safety equipment certificate expires 24 months after the date of issue.

§ 107.409 Safety construction certificate.

(a) Application for a safety construction certificate is made by indicating in the space provided on the Application for Inspection Form CG-3752 whether the American Bureau of Shipping or the Coast Guard is to issue the certificate.

(b) The American Bureau of Shipping or the Coast Guard may issue a unit of at least 500 gross tons that engages on international voyages a safety construction certificate if the unit meets the requirements in Regulation 12(a)(ii), Chapter I of the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

(c) A safety construction certificate expires 60 months after the date of issue.

(d) If a unit fails to meet the requirements in Regulation 12(a)(ii), the Coast Guard may—

(1) Suspend an unexpired safety construction certificate; or

(2) Revoke an unexpired safety construction certificate.

§ 107.413 Exemption certificate.

(a) An owner or operator of a unit may request an exemption from the requirements of the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60) by writing to the OCMI.

(b) The Coast Guard may exempt a self-propelled unit of at least 500 gross tons on an international voyage from any of the requirements in the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60) if the unit meets the conditions of Regulation 4 of Part A, Chapter I, of SOLAS 60 which states the following: "A ship which is not normally engaged on international voyages but which, in exceptional circumstances, is required to undertake a single international voyage may be exempted by the Administration from any of the requirements of the present Regulations provided that it complies with safety requirements which are adequate in the opinion of the Administration for the voyage which is to be undertaken by the ship."

(c) The Coast Guard may exempt a self-propelled unit of at least 500 gross tons on an international voyage from the requirements of Chapter III (Lifesaving Appliances, & C.) of SOLAS 60 if the unit meets the conditions of Regulation 3 of Chapter III which states in part: "The Administration, if it considers that the sheltered nature and conditions of the voyage are such as to render the application of the full requirements of this chapter (Chapter III) unreasonable or unnecessary, may to that extent exempt from the requirements of this chapter individual ships or classes of ships which, in the course of their voyage, do not go more than 20 miles from the nearest land * * *".

(d) The Coast Guard may exempt a unit from the requirements of Chapter II (Construction) of SOLAS 60 if the unit meets the conditions of Regulation 1(c) of Part A of Chapter II of SOLAS 60 which states the following: "The Administration may, if it considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements of this chapter (Chapter II) unreasonable or unnecessary, exempt from those requirements individual ships or classes of ships belonging to its country which, in the course of their voyage, do not proceed more than 20 miles from the nearest land."

(e) An Exemption Certificate is in force for the period of validity of the certificate to which it refers.

PART 108—DESIGN AND EQUIPMENT

Subpart A—General

§ 108.103 Equipment not required on a unit.

Each item of lifesaving and firefighting equipment that a unit has in addition to those required by this part for the unit must meet the requirements of this subchapter for that item of equipment.

§ 108.105 Substitutes for required fittings, material, apparatus, equipment, arrangements, and tests.

(a) The Coast Guard may accept substitutes for fittings, material, apparatus, equipment, arrangements, and tests required in this Subchapter if the substitute provides an equivalent level of safety.

(b) In any case where it is shown to the satisfaction of the Commandant that the use of any particular equipment, apparatus, arrangement, or test is unreasonable or impracticable, the Commandant may permit the use of alternate equipment, apparatus, arrangement, or test to such an extent and upon such condition as will insure, to his satisfaction, a degree of safety consistent with the minimum standards set forth in this subchapter.

§ 108.109 Classification society standards.

(a) When, in this Subchapter, the standards established by the American Bureau of Shipping are required to be met, the current standards in effect at the time of the contract date of the unit must be used.[4]

(b) Any person who desires to use the rules of a classification society other than the American Bureau of Shipping to meet requirements in this Subchapter must request recognition of that society from the Commandant (G-MMT). The relevant rules must be submitted with the request.

Subpart B—Construction and Arrangement

HULL STRUCTURE

§ 108.113 Structural standards.

Each unit must meet the structural standards of a recognized classification society described in § 108.109 of this subchapter.

§ 108.114 Appliances for watertight and weathertight integrity.

(a) Appliances to ensure watertight integrity include watertight doors, hatches, scuttles, bolted manhole covers, or other watertight closures for openings in watertight decks and bulkheads.

(b) Appliances to ensure weathertight integrity include weathertight doors and hatches, closures for air pipes, ventilators, ventilation intakes and outlets, and closures for other openings in deckhouses and superstructures.

(c) Each internal opening fixed with appliances to ensure watertight integrity which are used temporarily during operation of the unit while afloat must meet the following:

(1) Each door, hatch, and scuttle must—

(i) Be remotely controlled from a normally manned control station, and be operable locally from both sides of the bulkhead; or

(ii) If there is no means of remote control there must be an alarm system which signals whether the appliance is open or closed both locally at each appliance and in a normally manned control station.

(2) Each closing appliance must remain watertight under the design water pressure of the watertight boundary of which it is a part.

(d) Each external opening fitted with an appliance to ensure weathertight integrity must be located so that it would not be submerged below the final equilibrim waterline if the unit is subjected simultaneously to—

(1) Damage causing flooding described in §§ 108.319 through 108.323; and

(2) A wind heeling moment calculated in accordance with § 108.311 using a wind velocity of 25.8 meters per second (50 knots).

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[4] The standards established by the American Bureau of Shipping are usually published annually and may be purchased from the American Bureau of Shipping, 45 Broad Street, New York, N.Y. 10004. These standards may also be examined at the Office of the Commandant (M), U.S. Coast Guard, Washington, D.C. 20590, or at the office of any Coast Guard District Commander or Officer in Charge, Marine Inspection.

§ 108.115 Sliding watertight doors.

If a unit is equipped with sliding watertight doors, each sliding watertight door must be approved under Subpart 163.001 of Subchapter Q of this chapter.

FIRE PROTECTION: GENERAL

§ 108.123 Isolation of combustible material.

Each internal combustion engine exhaust, boiler and galley uptake, and similar heat source must be separated or insulated from combustible materials.

§ 108.127 Storage lockers for combustibles.

Each oil and paint locker must be made of steel or an equivalent material or be completely lined with steel or an equivalent material as described in § 108.131(c) of this subpart.

STRUCTURAL FIRE PROTECTION

§ 108.131 Definitions.

(a) "Standard Fire Test" means the test in which specimens of the relevant bulkheads or decks, having a surface of approximately 4.65 square meters (50 square feet) and a height of 2.44 meters (8 feet) resembling as closely as possible the intended construction and including, where appropriate, at least one joint, are exposed in a test furnace to a series of temperature relationships approximately as follows:

At the end of 5 minutes —538° C. (1,000° F.).

At the end of 10 minutes —704°C. (1,300° F.).

At the end of 30 minutes —843°C. (1,550° F.).

At the end of 60 minutes —927°C. (1,700° F.).

(b) Bulkheads and decks are classed as follows:

(1) "A class bulkhead or deck" means a bulkhead or deck that—

(i) Is made of steel or other equivalent material; and

(ii) Prevents the passage of flame and smoke for 60 minutes if subjected to the standard fire test.

(2) "A 60 bulkhead or deck" means an A class bulkhead or deck that—

(i) Is insulated with approved insulation, bulkhead panels, or deck covering;

(ii) If subjected to the standard fire test for 60 minutes, has an average temperature rise on the unexposed side of the insulated bulkhead or deck of less than 139°C. (250°F.) above the temperature before the standard fire test and has a temperature rise at any point on the unexposed surface, including any joint, of less than 180°C. (325°F.) above the temperature before the standard fire test.

(3) "B class bulkhead or deck" means a bulkhead or deck that—

(i) Is made of approved noncombustible material;

(ii) Prevents flame from passing through it for 30 minutes if subjected to the standard fire test.

(4) "C class bulkhead or deck" means a bulkhead or deck made of approved noncombustible material.

(c) "Equivalent material" means a material that by itself or with insulation has smoke and fire retardant properties equal to that of the steel required for "A" or "B" class bulkheads or decks and has structural qualities equivalent to steel at the end of the applicable fire exposure.

(d) "Approved material" means a material approved under one of the following subparts of Subchapter Q of this chapter:

(1) Deck coverings, Subpart 164.006.

(2) Structural insulation, Subpart 164.007.

(3) Bulkhead panel, Subpart 164.008.

(4) Noncombustible materials, Subpart 164.009;

(5) Interior finishes, Subpart 164.012.

(e) "Stairtower" means a stairway that penetrates more than one deck within the same enclosure, or two or more stairways that—

(1) Are arranged vertically one above the other; or

(2) Penetrate both the deck and the overhead within the same enclosure.

(f) "Classified location" means—

(1) The following Class I Division 1 locations:

(i) An enclosed space that has—

(A) A shale shaker;

(B) Mud processing equipment between the well and the location of final degassing; or

(C) Open drilling mud tanks or open ditches between the well and the location of final degassing.

(ii) A location in the weather that is—

(A) Within 1.5 meters (5 feet) of any of the equipment listed in paragraph (1)(i);

(B) Within 1.5 meters (5 feet) of a ventilation outlet, door, or opening of a space listed in paragraph (1)(i); or

(C) Within 1.5 meters (5 feet) of a gas vent outlet.

(iii) A Division 2 location, as defined in paragraph (b)(2) where combustible or flammable gases might accumulate.

(iv) All of the enclosure of an enclosed derrick substructure.

(v) Except as provided in paragraph (3), an enclosed space that has a direct access to a location under paragraphs (1)(i) through (iv).

(2) The following Class I Division 2 locations;

(i) An enclosed space that has any open portion of the mud return system, from the location of final degassing to the mud pump suction connection at the mud pit.

(ii) A location in the weather that is—

(A) Within 3 meters (10 feet) of the center of the bottom surface of the rotary table;

(B) Within 1.5 meters (5 feet) of a ventilation outlet for or a door for a space listed in paragraph (2)(i); or

(C) Within 1.5 meters (5 feet) of a Class I Division 1 location in the weather.

(iii) The surface of an enclosed derrick floor and all of the floor's enclosure above the drilling floor.

(iv) Except as provided in paragraph (3), an enclosed space that has a direct access to a location under paragraph 2 (i) through (iii).

(3) An enclosed space that has direct access to a Division 1 or Division 2 location is the same division as that location except—

(i) An enclosed space that has direct access to a Division 1 location is not a classified location if—

(A) The access has a self-closing gastight door that opens into the space and that has no hold back device; and

(B) Ventilation causes greater pressure in the space than in the Division 1 location; and

(C) Loss of pressure in the space to a lesser pressure than that in the Division 1 location actuates an alarm at a manned control station.

(ii) An enclosed space that has direct access to a Division 2 location is not a classified location if—

(A) The access has a gastight door;

(B) Ventilation causes the air to flow with the door open from the space into the Division 2 location; and

(C) Loss of ventilation actuates an alarm at a manned control station.

(g) "Accommodation space" includes sleeping, mess, hospital, recreational, toilet, washing and shower spaces, and corridors.

§ 108.133 Hull superstructure, structural bulkheads, decks, and deckhouses.

Each hull superstructure, structural bulkhead, deck, and deckhouse must be made of steel or an equivalent material.

§ 108.135 Boundary bulkheads, decks of galleys, and combustible material lockers.

Each boundary bulkhead and deck of each galley, each combination galley and messroom, and each combustible material storage locker must be an A class bulkhead and A class deck respectively.

§ 108.137 Bulkhead and deck separations of accommodation spaces.

Each boundary bulkhead and deck that separates an accommodation space or control station from the following must be an A class bulkhead and A class deck respectively—

(a) Machinery space;

(b) Galley or combination galley and messroom;

(c) Main pantry;

(d) Classified space;

(e) Store room.

§ 108.139 Boundary bulkheads and decks of a space containing emergency power.

Each boundary bulkhead and deck of a space containing an emergency electric power source or components of an emergency electric power source must be an A class bulkhead and A class deck. When separate but adjoining spaces are provided, boundary bulkhead type construction is not required for separating partitions common to each space.

§ 108.141 Boundary bulkheads and decks between the emergency power source and service generators.

Each boundary bulkhead and deck of a space containing an emergency electric power source or components of an emergency electric power source that adjoins a space containing a ship's service generator, the components of a ship's service generator, or a restricted space must be an A-60 bulkhead and A-60 deck.

§ 108.143 Accommodation space.

(a) Each corridor bulkhead in an accommodation space must be an A class or B class bulkhead except if an A class bulkhead is specifically required by this Part.

(b) No door in a corridor bulkhead in an accommodation space may have a louver, except that a stateroom door may have louvers in its lower half.

(c) Each stairtower, elevator, and dumbwaiter, and other trunk must be enclosed by A class bulkheads.

(d) Each bulkhead not described under paragraph (a) of this section must be either A class, B class, or C class bulkheads.

(e) At least one opening to each stairway must be enclosed by either A class or B class bulkheads and doors.

(f) Each stairtower must have doors at all levels and each must be an A class door.

(g) Each door required by paragraphs (e) and (f) of this section—

(1) Must be self-closing;

(2) May not have any means to permanently hold the door open, except for magnetic holdbacks that are operated from the bridge or other remote location.

(h) Interior stairs, including stringers and treads, must be made of steel or an equivalent material.

(i) Except in washrooms and toilet spaces, each deck covering in an accommodation space must be made of an approved material, except an overlay on a deck for leveling or finishing that is not more than 9.375 millimeters (⅜ inch) thick.

(j) Except as provided in paragraph (l), each ceiling, lining, insulation, and pipe and duct lagging in an accommodation space must be made of an approved material that is noncombustible.

(k) Each sheathing, furring, or holding piece used to secure a bulkhead, ceiling, lining, or insulation in an accommodation space must be made of an approved material that is noncombustible.

(l) No bulkhead, lining, or ceiling in an accommodation space may have a combustible veneer greater than 2.1 millimeters (1/12 inch) in thickness.

(m) Each corridor or hidden space in an accommodation space may be covered by an approved interior finish or a reasonable number of coats of paint. However, no corridor or hidden space may have combustible veneer, trim, or decoration.

§ 108.145 Hatches and tonnage openings.

Each hatch, except a hatch between storage spaces and each tonnage opening closure, must be made of steel or an equivalent material of the same class as the bulkhead or deck where the opening occurs.

§ 108.147 Certain paints prohibited.

No nitrocellulose or other highly flammable or noxious fume-producing paint or lacquer may be used on a unit.

MEANS OF ESCAPE

§ 108.151 Two means required.

(a) Each of the following must have at least 2 means of escape:

(1) Each space that is used by personnel on a regular basis, except an individual living space.

(2) Each accommodation space with a deck area of at least 27 square meters (300 square feet).

(b) When two means of escape are required from a space below the main deck, at least one of the means of escape must be through an opening other than a watertight door.

(c) When two means of escape are required from a space opening to the weather, at least one of the means of escape must be through a quick acting door.

§ 108.153 Location of means of escape.

The required two means of escape must be through exits that minimize the possibility of having both exits blocked if a fire or other casualty occurs in the area.

§ 108.155 Type of means of escape prohibited.

A required means of escape may not be a vertical ladder or deck scuttle, except that one of the means of escape may be a vertical ladder or deck scuttle if a stairway would be impracticable.

§ 108.157 Locked doors.

No door to the required means of escape may be designed to lock except—

(a) A crash door or a door that has a locking device that can be easily forced, if on both sides of the door a permanent and easily seen instruction is placed; or

(b) An outside door to a deckhouse if the door can be locked by key only and if the master or person in charge has control of the key to the door's lock.

§ 108.159 Stairway width.

Each stairway, except a stairway in a machinery or storage space, must be at least 70 centimeters (28 inches) wide with an angle of inclination from the horizontal of not more than 50 degrees, except that special consideration may be given if it is impracticable to install a 70 centimeters (28 inch) wide stairway.

§ 108.160 Vertical ladder width.

Each vertical ladder must meet the requirements of ANSI Code A14.3 for Fixed Ladders.

§ 108.161 Dead end corridors.

No dead end corridor may be more than 13 meters (43 feet) long.

§ 108.165 Access to lifeboats and liferafts.

Each unit must be designed to provide direct access to the lifeboat and liferaft embarkation areas.

§ 108.167 Weather deck ladders.

Each unit must have at least one permanent, inclined ladder between each weather deck.

VENTILATION

§ 108.181 Ventilation for enclosed spaces.

(a) Each enclosed space must be vented or ventilated.

(b) There must be a means to close each vent or ventilating system.

(c) Each fan in a ventilating system must have remote controls installed in accordance with Subpart 111.103 of this chapter.

(d) There must be a means to close each doorway, ventilator, and annular space around each funnel or other opening to machinery, stowage, or working spaces. The means must be located outside the space.

(e) Each intake in a ventilating system must be located so as to prevent as far as practicable the intake of noxious fumes.

§ 108.185 Ventilation for enclosed classified locations.

(a) The ventilation system for each enclosed classified location must be designed to maintain a pressure differential between the enclosed classified location and each non-classfied location adjacent to the enclosed classified location, so as to prevent the discharge of ignitable gases into these non-classified adjacent locations.

(b) Each air intake must be outside of enclosed classified locations.

(c) Each unit must have alarms at a continuously manned station that signal that—

(1) Gas is present in a enclosed classified location; or

(2) The ventilation system for the space is not working.

(d) Each ventilation system for classified locations must provide a complete change of air every five minutes.

§ 108.187 Ventilation for brush type electric motors in classified spaces.

Ventilation for brush type electric motors in classified locations must meet NFPA 496, "Standard for Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations", except audible and visual alarms may be used if shutting down the motors may cause unsafe conditions.

ACCOMMODATION SPACES

§ 108.193 Accommodation spaces: location: all units.

(a) There must be no direct communication between the accommodation spaces and any chainlocker, stowage, or machinery space, except through solid, close-fitted doors or hatches.

(b) No access, vent, or sounding tube from a fuel or oil tank may open into any accommodation space, except that accesses and sounding tubes may open into corridors.

§ 108.195 Accommodation spaces: location: surface type units.

On surface type units—

(a) Accommodation spaces must not

be located forward of a vertical plane located at 5 percent of the unit's length aft of the stem, at the designed summer load line; and

(b) The deckhead of each accommodation space must be above the deepest load line.

§ 108.197 Accommodation spaces: construction: all units.

(a) Each sleeping, mess, recreational, or hospital space that is adjacent to or immediately above a stowage or machinery space, paint locker, drying room, washroom, toilet space, or other odor source, must be protected by odorproof bulkheads and deckheads.

(b) Each accommodation space that is adjacent to or immediately above a galley, machinery space, machinery casing, boiler room, or other heat source, must be protected from the heat.

(c) Where the shell or an unsheathed weather deck forms a boundary of an accommodation space, the shell or deck must have a covering that prevents the formation of moisture.

(d) The interior sides and deckheads of each accommodation space must be a light color.

(e) Each accommodation space in which water may accumulate must have a drain scupper located in the lowest part of the space, considering the average trim of the unit.

(f) Each public toilet space must be constructed and located so that its odors do not readily enter any sleeping, mess, recreational, or hospital space.

§ 108.199 Accommodation spaces: sleeping spaces: arrangement.

To the extent practicable, each occupation group must be berthed together in sleeping spaces arranged to minimize disturbance created by personnel leaving for or arriving from a working period.

§ 108.201 Accommodation spaces: sleeping spaces: size.

(a) No sleeping space may berth more than four persons, except that a sleeping space for industrial personnel not regularly employed on a unit may berth up to six persons if the space meets § 108.199 and berthing of six persons in that space is authorized by the Commandant.

(b) Without deducting any equipment used by the occupants, each sleeping space must have for each occupant—

(1) 2.8 square meters (approximately 30 square feet) of deck area; and

(2) 6 cubic meters (approximately 210 cubic feet) of volume.

(c) Each sleeping space must have at least 191 centimeters (approximately 6 feet 3 inches) of headroom over clear deck areas.

§ 108.203 Accommodation spaces: sleeping spaces: berths and lockers.

(a) Each sleeping space must have a separate berth for each occupant.

(b) No more than one berth may be placed over another.

(c) Each berth must have a framework of hard, smooth material that is not likely to corrode or harbor vermin.

(d) Each berth must be arranged to provide ample room for easy occupancy.

(e) Each berth must be at least 76 centimeters (approximately 30 inches) wide by 193 centimeters (approximately 76 inches) long.

(f) Adjacent berths must be separated by a partition that extends at least 46 centimeters (approximately 18 inches) above the sleeping surface.

(g) The bottom of a lower berth must be at least 30 centimeters (approximately 12 inches) above the deck.

(h) The bottom of an upper berth must be at least 76 centimeters (approximately 2 feet 6 inches) from the bottom of the berth below it and from the deck or any pipe, ventilating duct, or other obstruction above it.

(i) Each occupant of a sleeping space must have a readily accessible locker of hard, smooth material.

(j) Each locker must be at least .194 square meters (approximately 300 square inches) in cross section and 1.53 meters (approximately 60 inches) high.

(k) Each berth must have a berth light.

§ 108.205 Accommodation spaces: wash spaces; toilet spaces; and shower spaces.

(a) For the purposes of this section—

(1) "Private facility" means a toilet, washing, or shower space that is accessible only from one single or double occupancy sleeping space;

(2) "Semi-private facility" means a toilet, washing or shower space that is accessible from either of two one-to-four person occupancy sleeping spaces; and

(3) "Public facility" means a toilet, washing, or shower space that is not a private or semi-private facility.

(b) Each private facility must have one toilet, one shower, and one washbasin, all of which may be in a single space.

(c) Each semi-private facility must have at least one toilet and one shower, which may be in a single space.

(d) Each room adjoining a semi-private facility must have a washbasin if a washbasin is not installed in a semi-private facility.

(e) Each unit must have enough public facilities to provide at least one toilet, one shower, and one washbasin for each eight persons who occupy sleeping spaces that do not have private or semi-private facilities.

(f) Urinals may be installed in toilet rooms, but no toilet required in this section may be replaced by a urinal.

(g) Each public toilet space and washing space must be convenient to the sleeping space that it serves.

(h) No public facility may open into any sleeping space.

(i) Each washbasin, shower, and bathtub must have hot and cold running water.

(j) Adjacent toilets must be separated by a partition that is open at the top and bottom for ventilation and cleaning.

(k) Public toilet facilities and shower facilities must be separated.

(l) Each public facility that is a toilet space must have at least one washbasin unless the only access to the toilet space is through a wishing space.

(m) Each toilet must have an open front seat.

(n) Each washing space and toilet space must be so constructed and arranged that it can be kept in a clean and sanitary condition and the plumbing and mechanical appliances kept in good working order.

(o) Washbasins may be located in sleeping spaces.

§ 108.207 Accommodation spaces: messrooms.

(a) Each messroom that is not near the galley that serves it must be equipped with a steamtable.

(b) Each messroom must seat the number of persons expected to eat in the messroom at one time.

§ 108.209 Accommodation spaces: hospital space.

(a) Each unit carrying twelve or more persons on a voyage of more than three days must have a hospital space.

(b) Each hospital space must be suitably separated from other spaces.

(c) No hospital space may be used for any other purpose, when used for care of the sick.

(d) An entrance to each hospital space must be wide enough and arranged to readily admit a stretcher.

(e) Each berth in a hospital space must be made of metal.

(f) Each upper berth must be hinged and arranged so that it can be secured clear of the lower berth.

(g) Each hospital space must have at least one berth that is accessible from both sides.

(h) Each hospital space must have one berth for every 12 persons or portion thereof on board, who are not berthed in single occupancy rooms, but the number of berths need not exceed six.

(i) Each hospital space must have a toilet, washbasin, and bathtub or shower accessible from the hospital space.

(j) Each hospital space must have equipment such as clothes lockers, a table, and a seat.

(k) A hospital space is not required on a unit if one single or double occupancy sleeping space is designated and equipped as a treatment or isolation room or both and—

(1) Is available for immediate medical use;

(2) Has an entrance that is wide enough and arranged to admit a stretcher case readily;

(3) Has a single berth or examination table that is accessible from both sides;

(4) Has a washbasin in or immediately adjacent to it.

§ 108.211 Accommodation spaces: other spaces.

(a) Each unit must have enough facilities for personnel to wash their own clothes, including at least one tub or sink that has hot and cold running water.

(b) Each unit must have enough equipment or space for the personnel to dry their own clothes.

(c) Each unit must have an accommodation space that can be used for recreation.

§ 108.213 Accommodation spaces: heating.

(a) Each accommodation space must be heated by a heating system that can maintain at least 20°C. (68°F.).

(b) Radiators and other heating apparatuses must be located or shielded or both so as to avoid risk of—

(1) Fire;

(2) Personal injury; and

(3) Discomfort to the occupants of each accommodation space.

(c) Each exposed pipe in an accommodation space, leading to a radiator or other heating apparatuses must be insulated.

§ 108.215 Accommodation spaces: insect screens.

Accommodation spaces must be protected against the admission of insects.

RAILS

§ 108.217 Guardrails and bulwarks.

(a) Each unit must have guardrails or bulwarks along the edge of the bridge, of each deck, and of each deck opening.

(b) Each guardrail and bulwark must extend at least one meter (39.37 inches) above the deck except where this height may interfere with the normal operation of the unit, a lesser height may be approved.

§ 108.219 Guardrails.

(a) Except on a freeboard or superstructure deck, each guardrail must have at least three courses not more than 38 centimeters (15 in.) apart with the lowest course not more than 23 centimeters (9 in.) above the deck.

(b) Each guardrail on a freeboard or superstructure deck must have at least three evenly spaced courses.

(c) For a rounded gunwale, the guardrail must be at the edge of the flat of the deck.

§ 108.221 Storm rails.

Each unit must have a storm rail in the following locations:

(a) On each deckhouse side that is normally accessible.

(b) On each side of each passageway that is wider than 1.83 meters (6 feet).

(c) On at least one side of each passageway that is less than 1.83 meters (6 feet) wide.

§ 108.223 Guard on exposed places.

Each unit must have hand covers, guards, or rails installed on all belts, gears, shafts, pulleys, sprockets spindles, flywheels or other reciprocating, rotating or moving parts of machinery or equipment normally exposed to contact by personnel.

HELICOPTER FACILITIES

§ 108.231 Application.

Section 108.231 through § 108.241 apply to each unit with a helicopter landing facility.

§ 108.233 Location and size.

Each helicopter landing facility must be—

(a) At least the size of the rotor diameter of the largest helicopter using the deck; and

(b) Located so as to provide clear paths to enable the largest helicopter using the deck to operate in all weather conditions which allow helicopter operations.

§ 108.235 Construction of the helicopter facility.

(a) Each helicopter landing facility must be designed to accommodate the loading (static) and landing (dynamic) characteristics of the largest helicopter that can use the facility.

(b) Design calculations for a helicopter landing facility must be made by placing the load in the most unfavorable position for each structural member analyzed.

(c) For a landing area on a deck that forms an integral part of a unit's structure, the analysis required in paragraph (b) must be based on—

(1) A classification society standard acceptable to the Coast Guard; or

(2) Existing stresses in the deck and the greater of—

(i) The gross weight of a loaded helicopter plus inertia forces from the helicopter due to vessel motions; or

(ii) The collapse load of the landing gear specified by the helicopter manufacturer.

(d) For a landing platform that is erected as a separate structure, the analysis required in paragraph (b) must be based on—

(1) A classification society standard acceptable to the Coast Guard; or

(2) The dead load of the structure, wind forces and the greater of—

(i) The gross weight of a loaded helicopter plus inertia forces from the helicopter and the platform due to vessel motions; or

(ii) The collapse load of the landing gear specified by the helicopter manufacturer.

(e) The landing area of all helicopter facilities must—

(1) Have a non-skid surface;

(2) Have drainage facilities that prevent the collection of liquids and prevent liquids from spreading to or falling on other parts of the unit;

(3) Have recessed tie-down points; and

(4) Be free of projections, except that landing lights or other projections may be installed around the periphery of the landing deck provided they do not interfere with landing and take-off operations.

(f) The unprotected perimeter of each helicopter facility must have a safety net at least 1.5 meters (4.92 ft.) wide.

(g) Each helicopter facility must have at least two access routes that are located as far apart from each other as practicable.

§ 108.237 Fuel storage facilities.

(a) Helicopter fuel storage tanks must be installed as far as practicable from—

(1) The landing area; and

(2) Each source of vapor ignition.

(b) Integral tanks must meet Subpart 58.50 of this chapter.

(c) Marine portable fuel stowage tanks must meet Subpart 96.40 of this chapter.

(d) Each marine portable fuel stowage tank must have a means to contain fuel spills or leaks.

§ 108.239 Fuel transfer equipment.

(a) Each nozzle must be a "deadman" type.

(b) Each hose must have a storage reel.

(c) Each hose must have a static grounding device.

(d) Each electric fuel transfer pump must have a control with a fuel transfer pump operation indicator light at the pump.

(e) There must be a fuel pump control at each access.

(f) Each fuel transfer pump and each hose reel must have a means to contain fuel spills or leaks.

(g) Each hose must meet paragraph 510 of Part V of the National Fire Protection Association Standard for Aircraft Fue Servicing (N.F.P.A. No. 407-1973).

§ 108.241 Visual aids.

Each helicopter landing area must have visual aids that meet the intent of the recommendations in the FAA Heliport Design Guide (AC 150/5390-1A November 5, 1969).

Subpart D—Stability

§ 108.301 Stability: definitions.

For the purposes of this subpart—

(a) "Normal operating condition" means a condition of a unit when loaded or arranged for drilling, field transit, or ocean transit; and

(b) "Severe storm condition" means a condition of a unit when loaded or arranged to withstand the passage of a severe storm.

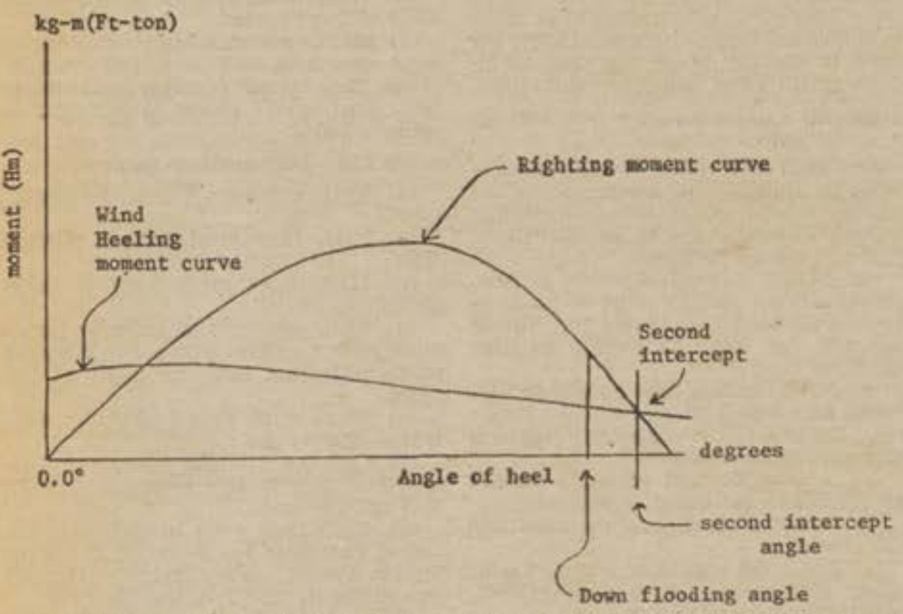
§ 108.303 Stability requirements: general.

Each unit must be designed in accordance with the stability criteria in § 108.305 to have positive metacentric height in the upright equilibrium position for the full range of drafts, whether at the operating draft for navigation, towing, or drilling afloat, or at a temporary draft when changing drafts.

§ 108.305 Intact stability requirements.

(a) Each unit must be designed so that the wind heeling moments (Hm) and righting moments calculated for each of its normal operating conditions and severe storm conditions, when plotted on graph 108.305, define areas that satisfy the equation $[\text{Area (A)}] \geqq [\text{K}] \times [\text{Area (B)}]$ where—

Graph 108.305 - Intact Stability Curves for a Given Normal Operating or Severe Storm Mode



(i) K=1.4, except that if the unit is a column stabilized unit K=1.3;

(ii) Area (A) is the area on graph 108.305 under the righting moment curve between 0° and the second intercept angle or the angle of heel at which downflooding would occur, whichever angle is less; and

(iii) Area (B) is the area on graph 108.305 under the wind heeling moment curve between 0° and the second intercept angle or the angle of heel at which downflooding of the unit would occur whichever angle is less.

(b) Each righting moment on graph 108.305 must be positive for all angles greater than 0° and less than the second intercept angle.

(c) The downflooding angle must be taken at the first opening which cannot rapidly be closed watertight. Small openings through which progressive flooding cannot take place need not be considered as points of downflooding.

(d) Each unit must be designed so that it can be changed from each of its normal operating conditions to a severe storm condition within a minimum period of time consistent with operating conditions as set out in § 109.121.

§ 108.309 Stability on bottom.

Each bottom bearing unit must be designed so that, while supported on the sea bottom with footings or a mat, it continually exerts a downward force on each footing or the mat when subjected to the forces of wave and current and to wind blowing at the velocities described in § 108.311 (b) (3).

§ 108.311 Calculation of wind heeling moment (Hm).

(a) The wind heeling moment (Hm) of a unit in a given normal operating condition or severe storm condition is the sum of the individual wind heeling moments (H) calculated for each of the exposed surfaces on the unit; i.e., $Hm=\epsilon H$.

(b) Each wind heeling moment (H) must be calculated using the equation $H=kv^2C_hC_sAh$
where—

(1) H=wind heeling moment for an exposed surface on the unit;

(2) $k=0.0623\ (kg\text{-}sec^2)/m^4$
$(0.00338\ lb/(ft^2\text{—}knots^2))$;

(3) v=wind velocity of—

(i) 36 meters per second (70 knots) for normal operating conditions

(ii) 51.5 meters per second (100 knots) for severe storm conditions

(iii) 25.8 meters per second (50 knots) for damage conditions.

(4) A=projected area of an exposed surface on the unit;

(5) C_h=height coefficient for "A" from Table 108.311(a);

(6) C_s=shape coefficient for "A" from Table 108.311(b); and

(7) h=the vertical distance from the center of lateral resistance of the underwater hull to the center of wind pressure on "A".

(c) When calculating "A" in the equation described in paragraph (b) of this section—

(1) The projected area of each column or leg, if the unit has columns or legs, must not include shielding allowances;

(2) Each area exposed as a result of heel must be included;

(3) The projected area of a cluster of deck houses may be used instead of the projected area of each individual deck house in the cluster; and

(4) The projected area of open truss work may be calculated by taking 30% of the projected areas of both the front and back sides of the open truss work rather than by determining the projected area of each structural member of the truss work.

TABLE 108.311(a).—C_h *values, height*

Meters at—		Feet at—		C_h
Over	Not exceeding	Over	exceeding	
0	15.3	0	50	1.00
15.3	30.5	50	100	1.10
30.5	46.0	100	150	1.20
46.0	61.0	150	200	1.30
61.0	76.0	200	250	1.37
76.0	91.5	250	300	1.43
91.5	106.5	300	350	1.48
106.6	122.0	350	400	1.52
122.0	137.0	400	450	1.56
137.0	152.5	450	500	1.60
152.5	167.5	500	550	1.63
167.5	183.0	550	600	1.67
183.0	198.0	600	650	1.70
198.0	213.5	650	700	1.72
213.5	228.5	700	750	1.75
228.5	244.0	750	800	1.77
224.0	256.0	800	850	1.79
>256		>850		1.80

NOTE.—The "Ch" value in this table used in the equation described in § 108.311(b) corresponds to the value of the vertical distance in meters (feet) from the actula water line of the unit to the center of area "A".

TABLE 108.311(b).—C_s *values*

Shape:	C_s
Cylindrical shapes	.5
Hull (surface type)	1.0
Deckhouse	1.0
Cluster of deckhouses	1.1
Isolated structural shapes (cranes, angles, channels, beams, etc.)	1.5
Under deck areas (smooth surfaces)	1.0
Under deck areas (exposed beams and girders)	1.3
Rig derrick (each face)	1.25

NOTE.—The value of C_s in this table used in the equation described in § 108.311(b) corresponds to the shape of the projected area "A".

§ 108.313 Submission of intact stability data.

Intact stability data submitted under § 107.305 of this subchapter must contain the righting moment curves and wind heeling moment curves described in graph 108.305 of this subpart, each with supporting calculations, for each of the unit's normal operating conditions and severe storm conditions.

§ 108.315 Damage stability requirements.

(a) Each unit must be designed so that, while in each of its normal operating conditions and severe storm conditions, its final equilibrium waterline would remain below the lowest adge of any opening through which additional flooding could occur if the unit were subjected simultaneously to—

(1) Damage causing flooding described in §§ 108.319 through 108.323; and

(2) A wind heeling moment calculated in accordance with § 108.311(b) using a wind velocity of 25.8 meters per second (50 knots).

(b) Each unit must have a means to close off each pipe, ventilation system, and trunk in each compartment described in § 108.321 or § 108.323 if any portion of the pipe, ventilation system, or trunk is within 1.5 meters (5 feet) of the hull.

§ 108.317 General damage stability assumptions.

For the purpose of determining compliance with § 108.315 of this subpart, the assumptions are made that during flooding and the resulting change in the unit's waterline—

(a) The unit is not anchored or moored; and

(b) No compartments on the unit are ballasted or pumped out to compensate for the flooding described in §§ 108.319–108.323 of this subpart.

§ 108.319 Compartments assumed flooded: general.

The individual flooding of each of the compartments described in § 108.321 and § 108.323 of this subpart must be assumed for the purpose of determining compliance with § 108.315(a) of this subpart. Simultaneous flooding of more than one compartment must be assumed when indicated in § 108.321 and § 108.323.

§ 108.321 Flooding on self-elevating and surface type units.

(a) On a self-elevating or surface type unit each watertight compartment within 1.5 meters (5 feet) of the bottom shell or an exposed deck must be assumed to be subject to flooding.

(b) On a surface type unit or self-elevating unit all compartments within 1.5 meters (5 feet) of the hull of the unit between two adjacent main watertight bulkheads, the bottom shell, and the uppermost deck must be assumed to be subject to simultaneous flooding.

(c) On the mat of a self-elevating unit all compartments within 1.5 meters (5 feet) of an outer side of the mat between two adjacent main watertight bulkheads, the bottom of the mat and the top of the mat must be assumed to be subject to simultaneous flooding.

§ 108.323 Flooding on column stabilized units.

(a) On a column stabilized unit, each watertight compartment within 1.5 meters (5 feet) of an outer surface of each column or footing on the periphery of the unit must be assumed to be subject to flooding.

(b) When a column is subdivided into watertight compartments by horizontal watertight flats, all compartments in the column within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(c) When a column is subdivided into watertight compartments by vertical watertight bulkheads, each two adjacent compartments must be assumed subject to simultaneous flooding if the angle between the vertical watertight bulkheads forming the compartments is 45 degrees or less.

(d) When a column is subdivided into watertight compartments by horizontal watertight flats and vertical watertight bulkheads, all compartments assumed to be subject to flooding in paragraphs (b) and (c) must be assumed to be subject to simultaneous flooding.

(e) Compartments in a footing must be assumed to be subject to flooding when any part of the compartment is within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding.

§ 108.325 Permeabilities.

The calculations submitted in accordance with § 108.329 of this subpart must show the permeability of each space considered in the calculations. The calculation of each permeability used must also be shown unless the value used is listed in Table 108.325.

TABLE 108.325—*Permeability values*

Space:	*Permeability*
Cargo or storage space	0.60
Accommodation space	0.95
Machinery space	0.85
Tank intended for liquids	[1] 0.0 or 0.95

[1] Use the value which results in the greatest change in the unit's waterline.

§ 108.329 Submission of damage stability data and calculations.

Damage stability data must be submitted for approval before the unit's original inspection for certification. This data must contain residual righting moment curves, wind heeling moment curves, and plans or sketches showing the unit's final equilibrium waterline, with supporting calculations for each, for each of the unit's normal operating conditions and severe storm conditions. This data must show compliance with § 108.315.

§ 108.335 Stability test.

(a) Except as provided in paragraph (c) of this section, the owner of a unit must—

(1) Conduct a stability test of the unit to determine its center of gravity and lightship displacement; and

(2) Submit the results of the test for approval by the Coast Guard before the unit's original inspection for certification.[7]

(b) An authorized Coast Guard representative must be present at each stability test conducted under this section.

(c) A stability test is not required for a unit if the owner provides the Coast Guard with the Coast Guard approved results of a stability test of a sister unit and the Commandant determines that reliable stability information for the unit not tested is obtainable from the test results of the sister unit.

§ 108.337 Plans and information required at the stability test.

The owner of a unit must provide the following plans and information to the authorized Coast Guard representative at the time of the stability test:

(a) Lines.

(b) Curves of form.

(c) Capacity plans showing capacities and vertical and longitudinal centers of gravity of stowage spaces and tanks.

(d) Tank sounding tables.

(e) Draft mark locations.

(f) General arrangement plan of decks, holds, and inner bottoms.

(g) Inboard and outboard profile.

(h) A complete list of material or equipment to be installed, removed, or relocated after the test, including the weight and location of each item on the list.

§ 108.339 Stability test preparations.

The following preparations must be made before conducting a stability test:

(a) The unit must be as complete as practicable at the time of the test.

(b) Each tank must be either empty and dry or full and without air pockets, except that a tank may be partially filled if the Commandant determines that compliance with this requirement is impracticable and that the effect of partial filling on the location of the center of gravity and the displacement of the unit can be accurately determined.

(c) All dunnage, tools, and other items extraneous to the complete unit must be removed from the unit.

(d) The water depth at the mooring site must provide ample clearance against grounding.

(e) Each mooring line must be arranged so that it does not interfere with the free inclination of the unit during the test.

(f) The draft and axis of rotation selected for the test must be those that result in the greatest accuracy in calculating the unit's center of gravity and displacement.

(g) At least two weeks prior to the date of the test, a stability test procedure must be submitted for approval. The procedure must include:

(1) Identification of the unit to be tested.

(2) Date and location of the test.

(3) Inclining weight data.

(4) Pendulum location and length.

(5) Approximate draft and trim of the unit.

(6) Condition of each tank.

(7) Estimated items to be installed, removed, or relocated after test, including the weight and location of each item.

(8) Schedule of events.

§ 108.341 Stability test procedure modifications.

The authorized Coast Guard representative present at a stability test may allow a deviation from the requirements of §§ 108.337 and 108.339 of this subpart if he determines that the deviation will not affect the accuracy of the test results.

§ 108.343 Stability: alterations.

Where alterations are made which materially affect the stability of a unit, amended stability information must be approved by the Coast Guard. The Coast Guard may require the unit to have a new stability test.

Subpart E—Fire Extinguishing Systems

§ 108.401 Fire main system.

Each unit must have a fire main system.

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[7] A stability letter is issued by the Coast Guard after approval of the test results and of the information required in § 109.121.

§ 108.403 Fire extinguishing systems: general.

(a) Each of the following on a unit must have a fixed gas type extinguishing system:

(1) Each paint locker, oil room, and similar space.

(2) Each enclosed space containing internal combustion or gas turbine main propulsion machinery.

(3) Each enclosed space containing internal combustion auxiliary machinery with an aggregate power of at least 1000 B.H.P.

(4) Each enclosed space containing a fuel oil unit, purifier, valve, or manifold for main propulsion machinery or internal combustion auxiliary machinery with an aggregate power of at least 1000 B.H.P.

(5) Each enclosed ventilation system for electric motors or generators used for vital services including bilge pumps, fire pumps, or propulsion.

(b) Each space containing an oil fired boiler, the fuel oil unit or valves for the boiler, or manifolds in the line between the fuel settling tanks and the boiler on a unit must have a fixed gas type, foam, water spray, or other fire extinguishing system.

§ 108.403a Fire extinguishing systems: non-vital services.

Each enclosed ventilating system for electric motors or generators not used for vital services must have an access into the system for firefighting or be protected by a fixed fire protection system.

§ 108.404 Selection of fire detection system.

If a fire detection system is in a space, it must provide effective detection, without false alarms, of the types of fires most likely to occur in the space.

§ 108.405 Fire detection system.

(a) Each fire detection system and each smoke detection system on a unit must—

(1) Be approved by the Commandant; and

(2) Have a visual alarm and an audible alarm in the pilothouse or at a normally manned control station for the system.

(b) Each fire detection system must be divided into zones to limit the area covered by any particular alarm signal.

(c) Each visual alarm must—

(1) Have a chart or diagram next to the alarm that shows the location of the zones in the system and that contains the instructions for operating, and testing the system;

(2) When activated show the zone in the system where fire has been detected; and

(3) Be in a noticeable location in the pilothouse or control station.

§ 108.407 Detectors for electric fire detection system.

(a) Each detector in an electric fire detection system must be located where—

(1) No portion of the overhead of a space protected is more than 3 meters (10 feet) from a detector;

(2) Beams and girders extending below the ceiling of the space protected and any other obstructions do not detract from the effectiveness of the detector; and

(3) Damage to the detector is unlikely to occur if it is not protected.

(b) Each detector must be set to activate at not less than 57°C (135°F) and at not more than 73°C (165°F) except that if a space normally has a high ambient temperature each detector may be set to activate at not less than 80°C (175°F) and not more than 107°C (225°F).

§ 108.409 Location and spacing of tubing in pneumatic fire detection system.

(a) All tubing in a pneumatic fire detection system must be on the overhead or within 300 millimeters (12 inches) of the overhead on a bulkhead in a location where—

(1) No portion of the overhead is more than 3.6 meters (12 feet) from the nearest point of tubing:

(2) Beams or girders extending below the ceiling or other obstructions do not detract from the effectiveness of the tubing; and

(3) Damage to the tubing, is unlikely to occur if it is not protected.

(b) If tubing in a tubing circuit is installed in an enclosed space, at least 5 percent of the tubing in the circuit must be exposed in the space, except that at least 7.6 meters (25 feet) of tubing must always be exposed in the space.

(c) A pneumatic fire detection system must be set to activate after approximately a 22°C. (40°F.) per minute increase in temperature at the center of the circuit in the system.

§ 108.411 Smoke detection system.

Each smoke accumulator in a smoke detection system must be located on the overhead of the compartment protected by the system in a location—

(a) Where no portion of the overhead of the compartment is more than 12 meters (40 feet) from an accumulator;

(b) That is no closer to the opening of a ventilator than 3 times the diameter or equivalent size of the opening.

(c) Where damage to the accumulator is unlikely to occur if it is not protected.

§ 108.413 Fusible element fire detection system.

(a) A fusible element fire detection system may be installed.

(b) The arrangements for the system must be acceptable to the Commandant.

FIRE MAIN SYSTEM

§ 108.415 Fire pump: general.

A fire main system must have at least two independently driven fire pumps that can each deliver water at a continuous pitot tube pressure of at least 3.5 kilograms per square centimeter (approximately 50 pounds per square inch) at at least two fire hose nozzles that are connected to the highest two fire hydrants on the unit, except that a column stabilized or self-elevating unit may have a fire main system of at least two independently driven fire pumps with booster pumps or storage tanks that meet the pressure requirement in this paragraph.

§ 108.417 Fire pump components and associated equipment.

(a) Each fire pump in a fire main system must have a relief valve on its discharge side that is set to relieve at 1.75 kilograms per square centimeter (approximately 25 pounds per square inch) in excess of the pump discharge pressure necessary to meet the pressure required in § 108.415 for the pump or 8.6 kilograms per square centimeter (approximately 125 pounds per square inch), whichever is greater. A relief valve may be omitted if the pump operating under shut off condition is not capable of developing the pressure described in § 108.415 plus 1.75 kilograms per square centimeter (25 pounds per square inch).

(b) Each fire pump in a fire main system must have a pressure gauge on its discharge side.

(c) Fire pumps may be used for other purposes. If a fire pump is used in a system other than the fire main system, each pipe connecting the other system must be connected to the pump discharge through a shut off valve at a manifold near the pump. If the fire pump exceeds the pressure in § 108.415 of this subpart, the pipe leading from the discharge manifold to other portions of the fire main system must have a reducing station and a pressure gauge in addition to the pressure gauge required by paragraph (b) of this section.

(d) If a fire pump has a reducing station, the relief valve required by paragraph (a) of this section for the pump and the additional pressure gauge required in paragraph (c) of this section must be located on the discharge side of the reducing station.

(e) An oil line must not be connected to a fire pump.

§ 108.419 Fire main capacity.

The diameter of the fire main must be sufficient for the effective distribution of the maximum required discharge from two fire pumps operating simultaneously.

§ 108.421 Location of fire pumps and associated equipment.

Each fire pump required by § 108.415, and the source of power, controls, sea connections for the fire pump, and booster pumps, if installed must be installed in locations where, if a fire occurs in an enclosed space, all of the fire pumps on the unit are not made inoperative, except that if compliance with this requirement is impracticable, a gas type extinguishing system may be installed to protect at least one of the fire pumps, its source of power, and controls.

§ 108.423 Fire hydrants and associated equipment.

(a) A fire main system must have enough fire hydrants so that each accessible space may be sprayed with at least two spray patterns of water.

(b) In a main machinery space except a shaft alley with no assigned space for stowage of combustibles, each spray pattern of water must be from one length of fire hose and each must be from a separate outlet. In all other spaces at least one spray pattern of water must be from one length of fire hose.

(c) No outlet on a fire hydrant may point above the horizontal.

(d) Each fire hydrant must have at least one spanner and at least one fire hose rack or reel.

§ 108.425 Fire hoses and associated equipment.

(a) Each length of fire hose in a fire main system must be —

(1) Of 1½ or 2½ inch nominal hose size diameter;

(2) Of 50 foot nominal hose size length; and

(3) Lined commercial fire hose that meets Standard 19 of the Underwriters' Laboratories, Inc., or Federal Specification ZZ-H-451d.

(b) Each fire hose coupling must —

(1) Be made of brass, bronze, or material that has corrosion resistant properties at least equal to those of brass or bronze; and

(2) Have 9 National Standard Firehose Coupling (NSFC) threads per inch for 1½ inch hose or 7½ NSFC threads per inch for 2½ inch hose.

(c) Each nozle for a fire hose in a fire main system must be a combination solid stream and water spray fire hose nozzle that is approved under Subpart 162.027 of this chapter.

(d) A low velocity spray applicator approved under Subpart 162.027 of this chapter is required at each fire hydrant serving —

(1) Machinery spaces containing oil fired boilers, internal combustion machinery or oil fuel units; and

(2) Helicopter decks.

§ 108.427 International shore connection.

(a) A fire main system on a unit in international service must have —

(1) At least two international shore connections that meet the requirements in Subpart 162.034 of this chapter; and

(2) A cutoff valve and check valve for each connection.

(b) Each connection must be in an accessible location and on opposite sides of the unit.

§ 108.429 Fire main system protection.

(a) Each pipe and fire hydrant in a fire main system must be installed to the extent practicable in locations that are not exposed to damage by materials that are moved on or onto the deck.

(b) Each part of the fire main system located on an exposed deck must either be protected against freezing or be fitted with cutout valves and drain valves to shut off and drain the entire exposed system in freezing weather.

FIXED CARBON DIOXIDE FIRE EXTINGUISHING SYSTEMS

§ 108.431 CO_2 systems; general.

(a) Sections 108.431 through 108.457 apply to high pressure carbon dioxide fire extinguishing systems.

(b) Low pressure systems, that is, those in which the carbon dioxide is stored in liquid form at low temperature, must be approved by the Commandant.

§ 108.433 Quantity of CO_2; general.

Each CO_2 system must have enough gas to meet the quantity requirements of § 108.439 for the space requiring the greatest amount of CO_2.

§ 108.435 CO_2 for enclosed ventilation systems for rotating electrical equipment.

(a) The number of pounds of CO_2 required for the initial charge to protect enclosed ventilation systems for rotating electrical equipment must be equal to the gross volume measured in cubic feet of the system divided by—

(1) 10 for systems having a volume less than 2,000 cubic feet, or

(2) 12 for systems having a volume of 2,000 cubic feet or more.

(b) In addition to the CO_2 required for the initial charge, the system must have enough CO_2 for delayed charges to maintain at least a 25 percent concentration until the equipment can be stopped, unless the initial charge is enough to maintain a 25 percent concentration.

§ 108.437 Pipe sizes and discharge rates for enclosed ventilation systems for rotating electrical equipment.

(a) The minimum pipe size for the initial charge must meet table 108.441 and the discharge of the required amount of CO_2 must be completed within 2 minutes.

(b) The minimum pipe size for the delayed discharge must be at least 1.25 centimeters (½ inch) standard pipe.

(c) The pipe used for the initial discharge must not be used for the delayed discharge, except on "small" systems.

§ 108.439 Quantity of CO_2 for protection of spaces.

(a) The number of pounds of CO_2 required to protect a space must be equal to the gross volume of the space divided by the appropriate factor from Table 108.439.

(b) If a machinery space includes a casing, the gross volume of the space may be calculated using the reductions allowed in 46 CFR 95.10–5(e).

(c) If fuel can drain from a space to an adjacent space or if two spaces are not entirely separate, the requirements for both spaces must be used to determine the amount of CO_2 to be provided and the CO_2 system must be arranged to discharge into both spaces simultaneously.

TABLE 108.439.—CO_2 *supply factors*

Gross volume of space in cubic feet		Factor
Over	Not over	
0	500	15
500	1,600	16
1,600	4,500	18
4,500	50,000	20
50,000	------------------	22

§ 108.441 Piping and discharge rates for CO_2 protection of spaces.

(a) The size of branch lines to spaces protected by a CO_2 system must meet Table 108.441.

(b) Distribution piping within a space must be proportioned from the supply line to give proper distribution to the outlets without throttling.

(c) The number, type, and location of discharge outlets must distribute the CO_2 uniformly throughout the space.

TABLE 108.441—*CO_2 system pipe size*

CO_2 supply in system, kilograms (pounds):	*Minimum pipe size, millimeters (inches)*
45 (100)	12.7 (½)
104 (225)	19.05 (¾)
136 (300)	25.4 (1)
272 (600)	31.75 (1¼)
450 (1,000)	38.10 (1½)
1,100 (2,450)	50.80 (2)
1,130 (2,500)	63.5 (2½)
2,023 (4,450)	76.2 (3)
3,229 (7,100)	88.9 (3½)
4,750 (10,450)	101.6 (4)
6,818 (15,000)	114.3 (4½)

(d) The total area of all discharge outlets must be more than 35 percent and less than 85 percent of the nominal cylinder outlet area or the area of the supply area of the supply pipe, whichever is smaller. The nominal cylinder outlet area in square inches is determined by multiplying the factor 0.0022 by the number of pounds of CO_2 required. The nominal cylinder outlet area must not be less than 71 square millimeters (0.110 square inches).

(e) A CO_2 system must discharge at least 85 percent of the required amount within 2 minutes.

§ 108.443 Controls and valves.

(a) At least one control for operating a CO_2 system must be outside the space or spaces that the system protects and in a location that would be accessible if a fire occured in any space that the system protects. Control valves must not be located in a protected space.

(b) A CO_2 system that protects more than one space must have a manifold with a stop valve, the normal position of which is closed, that directs the flow of CO_2 to each protected space.

(c) A CO_2 system that protects only one space must have a stop valve installed between the cylinders and the discharge outlets in the system, except on a system that has a CO_2 supply of 136 kilograms (300 pounds) or less.

(d) At least one of the control stations in a CO_2 system that protects a machinery space must be as near as practicable to one of the main escapes from that space.

(e) All distribution valves and controls must be of an approved type.

(f) Each CO_2 system that has a stop valve must have a remote control that operates only the stop valve and must have a separate remote control for releasing the required amount of CO_2 into the space protected by the system.

(g) Each CO_2 system that does not have a stop valve must be operated by a remote control that releases the required amount of CO_2 into the space protected by the system.

(h) Remote controls to each space must be in an enclosure.

(i) Each system must have a manual control at its cylinders for releasing CO_2 from the cylinders, except that if the system has pilot cylinders, a manual control is not required for other than pilot cylinders.

(j) If gas pressure is used to release CO_2 from a system having more than 2 cylinders, the system must have at least 2 pilot cylinders to release the CO_2 from the remaining cylinders.

(k) If the entrance to a space containing the CO_2 supply or controls of a CO_2 system has a lock, the space must have a key to the lock in a break-glass type box that is next to and visible from the entrance.

§ 108.445 Alarm and means of escape.

(a) Each CO_2 system that has a supply of more than 136 kilograms (300 pounds) of CO_2, except a system that protects a tank, must have an alarm that sounds for at least 20 seconds before the CO_2 is released into the space.

(b) Each audible alarm for a CO_2 system must have the CO_2 supply for the system as its source of power and must be in a visible location in the spaces protected.

§ 108.447 Piping.

(a) Each pipe, valve, and fitting in a CO_2 system must have a bursting pressure of at least 420 kilograms per square centimeter (6,000 pounds per square inch).

(b) All piping for a CO_2 system of nominal size of 19.05 millimeters (¾ inch) inside diameter or less must be at least Schedule 40 (standard weight) and all piping of nominal size over 19.05 millimeters (¾ inch) inside diameter must be at least Schedule 80 (extra heavy).

(c) Each pipe, valve, and fitting made of ferrous materials in a CO_2 system must be protected inside and outside from corrosion.

(d) Each CO_2 system must have a pressure relief valve set to relieve between 168 and 196 kilograms per square centimeter (2,400 and 2,800 pounds per square inch) in the distribution manifold or other location that protects the piping when all branch line shut off valves are closed.

(e) The end of each branch line in a CO_2 system must extend at least 50 millimeters (2 inches) beyond the last discharge outlet and be closed with a cap or plug.

(f) Piping, valves, and fittings in a CO_2 system must be securely supported and protected from damage.

(g) Each CO_2 system must have drains and dirt traps located where dirt or moisture can accumulate in the system.

(h) Discharge piping in a CO_2 system may not be used for any other purpose except as part of a fire detection system.

(i) Piping in a CO_2 system that passes through accommodation spaces must not have drains or other openings within these spaces.

§ 108.449 Piping tests.

Each test prescribed in (a), (b), and (c) of this section must be performed upon completion of the piping installation—

(a) When tested with CO_2 or other inert gas under a pressure of 70 kilograms per square centimeter (1000 pounds per square inch) with no additional gas introduced into the system, the leakage in the piping from the cylinders to the stop valves in the manifold must not allow a pressure drop of more than 10.5 kilograms per square centimeter (150 pounds per square inch) per minute for a 2 minute period.

(b) When tested with CO_2 or other inert gas under a pressure of 42 kilograms per square centimeter (600 pounds per square inch) with no additional gas introduced into the system, the leakage in each branch line must not allow a pressure drop of more than 10.5 kilograms per square centimeter (150 pounds per square inch) per minute for a 2 minute period. The distribution piping must be capped within the protected space.

(c) Small independent systems protecting emergency generator rooms, lamp lockers and similar small spaces need not meet the tests prescribed in paragraphs (a) and (b) of this section if they are tested by blowing out the piping with air at a pressure of at least 7 kilograms per square centimeter (100 pounds per square inch).

§ 108.451 CO_2 storage.

(a) Except as provided in paragraph (b) of this section, each cylinder of a CO_2 system must be outside each space protected by the system and in a location that would be accessible if a fire occurred in any space protected by the system.

(b) A CO_2 system that has a CO_2 supply of 136 kilograms (300 pounds) or less may have one or more cylinders in the space protected by the system if the space has a heat detection system to activate the system automatically in addition to the remote and manual controls required by this subpart.

(c) Each space that contains cylinders of a CO_2 system must be ventilated and designed to prevent an ambient temperature of more than 54° C. (130° F.)

(d) Each cylinder in a CO_2 system must be fastened, supported, protected from damage, in an accessible location, and capable of removal from that location.

(e) Each unit must have a means for weighing cylinders of a CO_2 system.

(f) A cylinder in a CO_2 system may not be mounted in a position that is inclined more than 30° from a vertical position, except that a cylinder having flexible or bent siphon tubes may be mounted in a position that is inclined up to 80° from the vertical. The bottom of each cylinder when mounted must be at least 50.8 millimeters (2 inches) from the deck.

(g) If a cylinder does not have a check valve on its independent cylinder discharge, it must have a plug or cap to close the outlet when the cylinder is moved.

(h) Each CO_2 system cylinder must be made, tested, and marked in accordance with 46 CFR 147.04-1.

§ 108.453 Discharge outlets.

Each discharge outlet must be of an approved type.

§ 108.455 Enclosure openings.

(a) Mechanical ventilation for spaces protected by a CO_2 system must be designed to shut down automatically when the system is activated.

(b) Each space that is protected by a CO_2 system and that has natural ventilation must have a means for closing that ventilation.

(c) Each space protected by a CO_2 system must have the following means for closing the openings to the space from outside the space:

(1) Doors, shutters, or dampers for closing each opening in the lower portion of the space.

(2) Doors, shutters, dampers or temporary means such as canvas or other material normally on board a unit may be used for closing each opening in the upper portion of the space.

§ 108.457 Pressure release.

Each air tight or vapor tight space, such as a paint locker, that is protected by a CO_2 system must have a means for releasing pressure that accumulates within the space if CO_2 is discharged into the space.

GAS EXTINGUISHING SYSTEM: HALONGENATED

§ 108.458 General.

Halongenated gas extinguishing systems may be installed if approved by the Commandant.

FOAM EXTINGUISHING SYSTEMS

§ 108.459 Number and location of outlets.

(a) A foam extinguishing system in a space must have enough outlets to spread a layer of foam of uniform thickness over the deck or bilge areas of the space.

(b) A foam extinguishing system in a space that has a boiler on a flat that is open to or can drain into a lower portion of the space must have enough outlets to spread a layer of foam of uniform thickness over the—

(1) Flat; and

(2) Deck or bilge areas of the space.

(c) A foam extinguishing system for a tank must have enough outlets to spread a layer of foam of uniform thickness over the surface of the liquid in the tank.

§ 108.461 Coamings.

Each machinery flat in a space that has a foam extinguishing system must have coamings on all openings except deck drains that are high enough to retain spilled oil and foam on the flat.

§ 108.463 Foam rate: protein.

(a) If the outlets of a protein foam extinguishing system are in a space, the foam rate at each outlet must be at least 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered by the system.

(b) If the outlets of a protein foam extinguishing system are in a tank, the foam rate at each outlet must be at least 4.07 liters per minute for each square meter (.1 gallon per minute for each square foot) of liquid surface in the tank.

§ 108.467 Water supply.

The water supply of a foam extinguishing system must not be the water supply of the fire main system on the unit unless when both systems are operated simultaneously—

(a) The water supply rate to the foam production equipment meets the requirements of this section; and

(b) Water supply rate to the fire hydrants required by § 108.415(a) of this subpart allows compliance with the pressure requirement in that section.

§ 108.469 Quantity of foam producing materials.

(a) Except as provided in paragraph (b) of this section, each foam extinguishing system with outlets—

(1) In a tank must have enough foam producing material to discharge foam for at least 5 minutes at each outlet; and

(2) In a space must have enough foam producing material to discharge foam for at least 3 minutes at each outlet.

(b) If a foam system has outlets in more than one tank or space, the system need have only enough foam producing material to cover the largest space that the system covers or, if the liquid surface of a tank covered by the system is larger, the tank with the largest liquid surface.

§ 108.471 Water pump.

Each water pump in a foam extinguishing system must be outside each machinery space in which the system has outlets and must not receive power from any of those spaces.

§ 108.473 Foam system components.

(a) Each foam agent, each tank for a foam agent, each discharge outlet, each control, and each valve for the operation of a foam extinguishing system must be approved by the Commandant.

(b) Each foam agent tank and each control and valve for the operation of a foam extinguishing system with outlets in a space must be outside the space and must not be in a space that may become inaccessible if a fire occurs in the space.

(c) Each control for a foam extinguishing system with outlets in a space must be near a main escape from the space.

§ 108.475 Piping.

(a) Each pipe, valve, and fitting in a foam extinguishing system must meet the applicable requirements in Subchapter F of this chapter.

(b) Each pipe, valve, and fitting made of ferrous material must be protected inside and outside from corrosion.

(c) Each pipe, valve, and fitting must have support and protection from damage.

(d) Each foam extinguishing system must have enough—

(1) Dirt traps to prevent the accumulation of dirt in its pipes; and

(2) Drains to remove liquid from the system.

(e) Piping in a foam extinguishing system must be used only for discharging foam.

§ 108.477 Fire hydrants.

(a) If a fixed foam extinguishing system has outlets in a main machinery space, at least 2 fire hydrants, in addition to the fire hydrants required by § 108.423 of this subpart, must be installed outside the entrances to the space with each at a separate entrance.

(b) Each hydrant must have enough hose to spray any part of the space.

(c) Each hose must have a combination nozzle and applicator.

FIRE PROTECTION FOR HELICOPTER FACILITIES

§ 108.486 Helicopter decks.

At least two of the access routes to the helicopter landing deck must each have a fire hydrant on the unit's fire main system located next to them.

§ 108.487 Helicopter deck fueling operations.

(a) Each helicopter landing deck on which fueling operations are conducted must have a fire protection system that discharges protein foam, or aqueous film forming foam.

(b) Each foam system must—

(1) Have enough foam agent to discharge foam continuously for at least 5 minutes at maximum discharge rate;

(2) Have at least the amount of foam agent needed to cover an area equivalent to the swept rotor area of the largest helicopter for which the deck is designed with foam at—

(i) If protein foam is used, 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered for five minutes;

(ii) If aqueous film forming foam is used, 4.07 liters per minute for each square meter (.1 gallons per minute for each square foot) of area covered for five minutes; and

(3) Be capable of discharging from each hose at 7 kilograms per square centimeter (100 pounds per square inch) pressure—

(i) A single foam stream at a rate of at least 340 liters (90 gallons) per minute; and

(ii) A foam spray at a rate of at least 190 liters (50 gallons) per minute.

(c) Each system must have operating controls at each of its hose locations, be protected from icing and freezing, and be capable of operation within 10 seconds after activation of its controls.

(d) Each system must have at least one hose at each of the two access routes required by § 108.235(e) of this Part. Each hose must be reel mounted and long enough to cover any point on the helicopter deck. Each hose that discharges foam must have a nozzle that has foam stream, foam spray, and off positions.

§ 108.489 Helicopter fueling facilities.

(a) Each helicopter fueling facility must have a fire protection system that discharges one of the following agents in the amounts prescribed for the agents over the area of the fuel containment systems around marine portable tanks, fuel transfer pumps and fuel hose reels:

(1) Protein foam at the rate of 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered for five minutes.

(2) Aqueous film forming foam at the rate of 4.07 liters per minute for each square meter (.1 gallon per minute for each square foot) of area covered for five minutes.

(3) 22.5 kilograms (50 pounds) of dry chemical (BV semi-portable) for each fueling facility of up to 27.87 square meters (300 square feet).

(b) If the fire protection system required by § 108.487 of this subpart is arranged so that it covers both a helicopter fueling facility and a landing deck, the system must have the quantity of agents required by this section in addition to the quantity required by § 108.487.

HAND PORTABLE AND SEMIPORTABLE FIRE EXTINGUISHING SYSTEMS

§ 108.491 General.

Each hand portable and semiportable fire extinguisher on a unit must be approved under Subpart 162.028 or 162.039 of this chapter.

§ 108.493 Location.

(a) Each unit must have the hand portable and semiportable fire extinguishers prescribed in Table 108.495(a) of this subpart and installed in the locations prescribed in the table.

(b) Each portable and semi-portable fire extinguisher must be visible and readily accessible.

(c) The location, size, and number of each portable and semiportable fire extinguisher on a unit must be acceptable to the OCMI. The OCMI may prescribe additional extinguishers that he considers necessary for fire protection on the unit.

(d) Each hand portable and semiportable fire extinguisher that is required on its nameplate to be protected from freezing must be located where freezing temperatures do not occur.

§ 108.495 Spare charges.

(a) Each unit must have enough spare charges for 50 percent of the hand portable fire extinguishers required under Table 108.495(a) of this subpart that are recharageable by personnel on the unit.

(b) If a unit has extinguishers that cannot be recharged by personnel on the unit, it must also have at least one spare extinguisher for each classification and variety of those extinguishers.

TABLE 108.495(a)

HAND PORTABLE FIRE EXTINGUISHERS AND
SEMIPORTABLE FIRE-EXTINGUISHING SYSTEMS

Space	Classification (see Table 108.495(b))	Quantity and Location
Safety Areas		
Wheelhouse and control room	C-I	2 in vicinity of exit.
Stairway and elevator enclosure		None required.
Corridors	A-II	1 in each corridor not more than 45 meters (150 feet) apart. (May be located in stairways.)
Lifeboat embarkation and lowering stations		None required
Radio room	C-I	2 in vicinity of exit.
Accommodations		
Staterooms, toilet spaces, public spaces, offices, lockers, small storerooms, and pantries, open decks, and similar spaces		None required.
Service spaces		
Galleys	B-II or C-II	1 for each 232 square meters (2,500 square feet) or fraction thereof suitable for hazards involved.
Paint and lamp rooms	B-II	1 outside each room in vicinity of exit.
Storerooms	A-II	1 for each 232 square meters (2,500 square feet) or fraction thereof located in vicinity of exits, either inside or outside the spaces.
Work shop and similar spaces	C-II	1 outside each space in vicinity of an exit.

Space	Classification (see Table 108.495(b)	Quantity and Location
Machinery spaces		
Oil-fired boilers: Spaces containing oil-fired boilers, either main or auxiliary, or their fuel oil units.	B-II	2 required in each space.
	B-V	1 required in each space.
Internal combustion or gas turbine propelling machinery spaces	B-II	1 for each 1000 brake horsepower but not less than 2 nor more than 6 in each space.
	B-III	1 required in each space. See Note 1.
Motors or generators of electric propelling machinery that do not have an enclosed ventilating system.	C-II	1 for each motor or generator
Motors and generators of electric propelling machinery that have enclosed ventilating systems.		None required.
Auxiliary spaces		
Internal combustion engines or gas turbine.	B-II	1 outside the space containing engines or turbines in vicinity of exit.
Electric emergency motors or generators.	C-II	1 outside the space containing motors or generators in vicinity of exit.
Steam driven auxiliary machinery		None required.
Trunks to machinery spaces		None required.
Fuel tanks		None required.
Miscellaneous areas		
Helicopter Landing Decks	B-V	1 at each access route.
Helicopter Fueling Facilities	B-IV	1 at each fuel transfer facility. See Note 2.
Drill floor	C-II	2 required
Cranes with Internal Combustion Engines	B-II	1 required

Note:
1. Not required where a fixed carbon dioxide system is installed.
2. Not required where a fixed foam system is installed in accordance with § 108.489 of this subpart.
3. For outside use, double the quantity of agent that must be carried.

TABLE 108.495(b)

Classification Type	Size	Water liters (gallons)	Foam liters (gallons)	Carbon dioxide kilograms (pounds)	Dry chemical kilograms (pounds)
A	II	9.5(2 1/2)	9.5 (2 1/2)		2.25 (5)[3]
B	I		4.7 (1 1/4)	1.8 (4)	.9 (2)
B	II		9.5 (2 1/2)	6.7 (15)	4.5 (10)
B	III		45.5 (12)	15.8 (35)	9.0 (20)
B	IV		7.6 (20)	22.5 (50)	13.5 (30)
B	V		152 (40)	45 (100)	22.5 (50)
C	I			1.8 (4)	.9 (2)
C	II			6.7 (15)	4.5(10)
C	III			15.8 (35)	9.0 (30)
C	IV			22.5 (50)	13.5 (30)

Note 1: Fire extinguishers are designated by type as follows:
(a) "A" for fires in combustible materials such as wood.
(b) "B" for fires in flammable liquids and greases.
(c) "C" for fires in electrical equipment.

2: Fire extinguishers are designated by size where Size "I" is the smallest and size "V" is the largest. Sizes "I" and "II" are hand portable extinguishers and sizes "III", "IV", and "V" are semiportable extinguishers.

3: Must be specifically approved as a Type A, B, or C extinguisher.

MISCELLANEOUS EQUIPMENT

§ 108.497 Fireman's outfits.

Each unit must have at least 2 fireman's outfits. Each fireman's outfit on a unit must consist of—

(a) A self-contained breathing apparatus approved under § 160.011 of this chapter;

(b) A three-cell, explosionproof flashlight with the Underwriter's Laboratories, Inc., label and set of spare batteries for the flashlight;

(c) An oxygen and explosive meter with the Underwriter's Laboratories, Inc. label or the Factory Mutual label;

(d) A lifeline that—

(1) Is attached to the self-contained breathing apparatus;

(2) Is made of bronze wire rope, inherently corrosion resistant steel wire rope, or galvanized or tinned steel wire rope;

(3) Is made up of enough 15.2 meters (50 foot) or greater lengths of wire rope to permit use of the outfit in any location on the unit;

(4) Has each end fitted with a hook with a 16 millimeters (5/8 inch) throat opening for the keeper; and

(5) Has a minimum breaking strength of 680 kilograms (1,500 pounds).

(e) Boots and gloves that are made of rubber or other electrically non-conductive material;

(f) A helmet that meets the requirements in ANSI Z-89.1-1969; and

(g) Clothing that protects the skin from scalding steam and the heat of fire and that has a water resistant outer surface.

§ 108.499 Fire axes.

Each unit must have at least two fire axes.

Subpart F—Lifesaving Equipment

§ 108.501 Survival capsule.

For the purposes of this subpart, the term lifeboat includes survival capsules.

§ 108.503 Lifeboats.

(a) Each unit with 30 persons or less on board must have at least one lifeboat. Each unit with more than 30 persons on board must have at least two lifeboats. The total number of lifeboats on a unit must accommodate all personnel on board.

(b) Each lifeboat on a unit must be approved under Subpart 106.035 of this chapter.

(c) Each lifeboat on a unit must be motor propelled and have an installed cover of international orange that provides protection from exposure and fire during operation of the lifeboat.

(d) Each lifeboat on a unit must have the equipment required by § 94.20-10 of this chapter for a lifeboat on an ocean or coastwise vessel other than a seagoing barge, except a ditty bag and a protective cover, and must have a list of that equipment. Except for boat hooks, the equipment and list must be securely stowed in the lifeboat. The equipment must meet the requirements in § 94.20-15 of this chapter.

§ 108.505 Liferafts.

(a) Each unit must have enough inflatable liferafts to accommodate at least 100 percent of the persons on board.

(b) Each inflatable liferaft on a unit must—

(1) Be approved under Subpart 160.051 of this chapter as an inflatable liferaft intended for an ocean service vessel; and

(2) Have a carrying capacity of not less than 6 nor more than 25 persons.

(c) Lifeboats may be substituted for inflatable liferafts.

§ 108.506 Lifeboat and lifeboat launching capability.

(a) Each lifeboat and liferaft on a surface type unit must be capable of being launched to the water at the highest operating draft when the unit has an adverse list up to 15° or trim up to 10°.

(b) Each lifeboat and liferaft on a non-surface type unit must be capable of being launched to the water at the highest operating draft when the unit has an adverse list and trim, the amount of which is determined by the characteristics of the unit.

§ 108.507 Launching equipment for lifeboats.

(a) Each unit must have the following launching equipment for each lifeboat:

(1) Mechanical disengaging apparatus that is approved under Subpart 160.033 of this chapter.

(2) Gravity davits that are approved under Subpart 160.032 of this chapter.

(3) A winch that is approved under Subpart 160.015 of this chapter.

(4) A means to hold the lifeboat steady in a location that allows a person to enter it.

(5) Wire falls that are—

(i) Equal or superior to 6 x 19 regular lay filler wire pre-lubricated during construction;

(ii) Not more than 2 part falls; and

(iii) Designed to have a minimum breaking strength of at least six times the maximum working load.

(6) Blocks, if necessary to allow the falls to lead freely from the drum of the winch, that—

(i) Have sheaves each with a diameter measured from the base of the groove in the sheave that is at least 12 times as large as the diameter of the fall passing over the sheave;

(ii) Have a means to lubricate the moving parts of the blocks; and

(iii) Are designed to have a minimum breaking strength of at least six times the maximum working load.

(b) If a lifeboat is mounted more than 9.2 meters (30 feet) above the design waterline of the unit, the lowering mechanism for the lifeboat must be operative from the lifeboat and from the unit.

(c) Each exposed wire fall on a unit must have a cover or means of protection from damage or fouling.

(d) The winch controls on the unit must be located where the operator can observe the lifeboat launching.

§ 108.508 Launching equipment for davit launched inflatable liferafts.

(a) Each unit that has davit launched inflatable liferafts must have the following launching equipment at each launching station:

(1) Winches that are approved by the Commandant.

(2) Mechanical disengaging apparatus that is approved by the Commandant.

(3) Davits that are approved by the Commandant.

(4) Load beaming components that meet §§ 108.507(a)(5), 108.507(c), and 108.509.

(5) A means to hold the liferaft against the unit that allows a person to enter the liferaft.

(6) A means to rapidly retrieve the falls if the station has more than one liferaft.

(b) The launching equipment must be capable of being operated by a person in the liferaft and a person on the unit.

(c) The winch controls on the unit must be located where the operator can observe the liferaft launching.

(d) The launching equipment must be arranged so that a loaded liferaft does not have to be lifted before it is lowered.

§ 108.509 Wire fall fleet angle.

(a) The portion of a wire fall between the drum of a winch on a unit and the first sheave over which the wire fall passes must have a fleet angle that is less than 8 degrees if the drum is a grooved drum and less than 4 degrees if the drum is a nongrooved drum.

(b) "Fleet angle" is the angle made by two lines that intersect at the center of the sheave. One line is perpendicular to the axis of the drum and the other passes through either end of the drum at its axis.

§ 108.510 Hydrostatic releases.

Each inflatable liferaft that is not intended for davit launching must have—

(a) A hydrostatic release approved under Subpart 160.062 of this chapter; or

(b) A means to ensure that the liferaft will float free if the unit sinks.

§ 108.511 Lifeboat and liferaft arrangement.

The lifeboats and liferafts on a unit must be arranged—

(a) To provide ready access to them;

(b) So that a fire or other casualty does not immobilize all lifeboats and liferafts;

(c) So that they are accessible for inspection, maintenance, and testing;

(d) In locations clear of overboard discharge lines, propellers, and hull obstructions; and

(e) In locations to launch as designed.

§ 108.514 Life preservers.

(a) Each unit must have enough adult life preservers for 125% of the persons on board.

(b) Each unit must have lockers, boxes, closets, shelves, or racks in readily accessible locations in berthing areas, watch stations, or other work areas for the stowage of life preservers. The stowage containers must not be capable of being locked.

(c) Each life preserver on a unit must be approved under Subpart 160.002, 160.005, or 160.055 of this chapter as a Type I—personal flotation device.

(d) Each life preserver on a unit must have a whistle that is—

(1) Of a ball-type;

(2) Corrision resistant; and

(3) Attached to the life preserver by a 1 meter (3 foot) lanyard that—

(i) Does not have hooks, snaps, clips, or other metal connecting devices;

(ii) Allows the whistle to extend at least 38 centimeters (15 inches) from the top of the life preserver; and

(iii) Is coiled and bound with breakable thread.

§ 108.515 Ring life buoys.

(a) Each unit must have at least eight ring life buoys and mounting racks.

(b) Each ring life buoy on a unit must—

(1) Have a mounting rack that secures the buoy and allows it to be easily removed from the rack;

(2) Be approved under Subpart 160.009 or 160.050 of this chapter.

(c) At least four ring life buoys on a unit must each have a waterlight attached to the buoy by a 1 to 2 meters (3 to 6 foot) lanyard. Each waterlight must be approved under Subpart 161.010 of this chapter.

(d) At least two ring life buoys that have waterlights must each—

(1) Have a smoke signal approved under Subpart 160.057 of this chapter that self-activates upon contact with the water;

(2) Have a releasing mechanism that can be operated from the bridge, except that if the bridge is not continuously manned the mechanism must be capable of operation from a location authorized by the OCMI.

(3) Be mounted in a location where the buoy, if released by the releasing mechanism, will drop into the water.

(e) At least one ring life buoy on each side of the unit must have a bouyant line attached to the buoy that is 1½ times the distance from the buoy to the design waterline of the unit or 15 fathoms in length, whichever is greater.

(f) Each ring life buoy on a unit must be readily accessible to persons on board.

§ 108.517 Line throwing appliance.

(a) Each unit on an international voyage must have at least one impulse projected rocket type line throwing appliance that is approved under Subpart 160.040 of this chapter.

(b) Each unit not on an international voyage must have—

(1) An impulse projected rocket type line throwing appliance that is approved under Subpart 160.040 of this chapter; or

(2) A shoulder type line throwing gun approved under Subpart 160.031 of this chapter.

§ 108.519 Portable radio apparatus.

Each unit on an international voyage must have a portable radio apparatus that meets the requirements of the Federal Communications Commission.

§ 108.521 Distress signals.

(a) Each self-propelled unit must have at least 12 hand held, rocket-propelled, parachute, red flare, distress signals. Each distress signal on a unit must be approved under Subpart 160.036 of this chapter.

(b) Each distress signal must be stowed in a portable, watertight, and noncorrosive container on the bridge or, if the unit does not have a bridge, in the control room.

§ 108.523 EPIRB.

Each self-propelled unit must have a Class A emergency position indicating radio beacon (EPIRB). Each EPIRB on a unit must be approved under Subpart 161.010 of this chapter.

§ 108.525 Means of embarkation.

(a) Except as provided in paragraph (c), each unit must have a chain suspension ladder approved under subpart 160.017 of this chapter for each lifeboat installation where the lifeboat is not equipped with a self-lowering device.

(b) Each chain suspension ladder must extend to the unit's light loadline with the unit at a 15° list away from the side where the ladder is installed.

(c) If a chain suspension ladder cannot be supported against a vertical flat surface, a fixed ladder must be installed; however no more than four fixed ladders are required.

(d) Each inclined fixed ladder must—

(1) Be at least 71 centimeters (28 inches) wide; and

(2) Have a pitch of 50° or less.

(e) Each vertical fixed ladder must meet the requirements of ANSI Code A14.3 for Fixed Ladders, except—

(1) Vertical bars in cages must be open at least 50 centimeters (20 inches) on one side for the length of the ladder; and

(2) No vertical fixed ladder may be made of wood.

§ 108.527 Means of abandonment.

Portable slides, safety booms, moveable ladders, elevators, and other means of abandonment may be installed if approved by the Commandant.

Subpart G—Cranes and Power Operated Industrial Trucks

CRANES

§ 108.601 Crane design.

(a) Each crane and crane foundation on a unit must be designed in accordance with the American Petroleum Institute Specification for Offshore Cranes, API Spec. 2C, Second Edition, February, 1972 (with supplement 2).

(b) In addition to the design requirements of paragraph (a), each crane must have the following:

(1) Each control marked to show its function.

(2) Instruments with built-in lighting.

(3) Fuel tank fills and overflows that do not run onto the engine exhaust.

(4) No gasoline engines.

(5) Spark arrestors fitted on engine exhaust pipes.

POWER OPERATED INDUSTRIAL TRUCKS

§ 108.611 Power operated industrial trucks: definition.

For the purposes of § 108.613 through § 108.615, "power industrial truck" means a tractor, lift truck, or specialized industrial truck used for material handling on a unit.

§ 108.613 Power operated industrial trucks.

(a) Each power operated industrial truck used on a unit must be designated as follows:

(1) "E"—electrically powered trucks that have safeguards against inherent sources of ignition.

(2) "EE"—electrically powered trucks that have the requirements for "E" trucks, and completely enclosed electric motors and equipment.

(3) "EX"—electrically powered trucks whose electrical fittings and equipment are designed, constructed, and assembled to permit the trucks to be used in atmospheres containing flammable vapors or dusts.

(4) "D"—diesel powered trucks that have safeguards against inherent sources of ignition.

(5) "DS"—diesel powered trucks that are provided with safeguards to the exhaust, fuel, and electrical systems not provided on a "D" truck.

(b) Each power operated industrial truck used on a unit must be approved and designated by a testing laboratory listed in paragraph (c) of this section.

(c) The Coast Guard recognizes the following testing laboratories for the purposes of this section:

(1) Underwriters' Laboratories, Inc., P.O. Box 247, Northbrook, Illinois, 60092.

(2) Factory Mutual Laboratories, Engineering Divisions, 1115 Boston Providence Turnpike, Norwood, Massachusetts 02062.

(d) Each power operated industrial truck used on a unit must have at least the following safety features—

(1) A warning device that can be heard above normal background noises.

(2) A driver's overhead guard.

(3) If the truck has a fork lift—

(i) A vertical load back rest or rack to prevent the load from falling toward the driver when the mast is in a position of maximum backward tilt;

(ii) A means of securing the forks to the carriage to prevent unintentional lifting of the toe;

(iii) A means of securing fork extensions and other attachments to prevent lifting or displacement on the primary forks; and

(iv) A factor of safety for the forks of at least three to one, based on the elastic limit of the fork material.

(4) Guards on each exposed wheel to prevent the wheel from throwing particles at the operator.

(5) A steering knob mounted within the perimeter of the wheel, if used on a steering mechanism that allows the wheel to spin as a result of road reaction, that is—

(i) Mushroom type that engages the palm of the operator's hand; or

(ii) Arranged in some other manner to prevent injury to the operator.

(6) Steering controls that are—

(i) Within the clearances of the truck; or

(ii) Guarded so that movement of the controls will not result in injury to the operator when the truck is passing an obstruction.

§ 108.615 Charging facilities for battery powered industrial trucks.

Each supply or charging circuit for charging batteries of powered industrial trucks must be connected to the truck by a portable plug that is—

(a) Break away type; and

(b) Connected to the charging outlet so that any movement of the truck away from the charging station—

(1) Breaks the connection;

(2) Does not expose any live parts to contact with a conducting surface or object; and

(3) Does not allow the plug to fall on to the deck.

Subpart J—Equipment Markings and Instructions

§ 108.621 Equipment markings: general.

Each marking required in this subpart must be—

(a) Printed in English;

(b) In red letters with a contrasting background;

(c) Permanent;

(d) Easy to be seen; and

(e) At least 1.3 centimeters (½ inch) in height; unless otherwise provided.

§ 108.623 General alarm bell switch.

Each general alarm bell switch must be marked "general alarm" on a plate or other firm noncorrosive backing.

§ 108.625 General alarm bell.

Each general alarm bell must be identified by marking "General Alarm—When Bell Rings Go To Your Station" next to the bell.

§ 108.627 Carbon dioxide alarm.

Each carbon dioxide alarm must be identified by marking: "When Alarm Sounds Vacate At Once. Carbon Dioxide Being Released" next to the alarm.

§ 108.629 Fire extinguishing system branch line valve.

Each branch line valve of each fire extinguishing system must be marked with the name of the space or spaces it serves.

§ 108.631 Fixed fire extinguishing system controls.

(a) Each cabinet or space that contains a valve, control, or manifold of a fixed fire extinguishing system must be marked by one of the following: "Carbon Dioxide Fire Apparatus", "Foam Fire Apparatus", or "Water Spray Fire Apparatus" in letters at least 5 centimeters (2 inches) high.

(b) Instructions for the operation of a fixed fire extinguishing system must be posted next to a fire apparatus described in paragraph (a) of this section.

§ 108.633 Fire stations.

Each fire station must be identified by marking: "Fire Station No. ——" next to the station in letters and numbers at least 5 centimeters (2 inches) high.

§ 108.635 Self-contained breathing apparatus.

Each locker or space containing a self-contained breathing apparatus must be marked: "Self Contained Breathing Apparatus".

§ 108.636 Work vests.

Each space containing a work vest must be marked: "WORK VEST."

§ 108.637 Hand portable fire extinguishers.

(a) Each hand portable fire extinguisher must be marked with a number that identifies it in relation to all other hand portable fire extinguishers.

(b) The location of each hand portable fire extinguisher must be marked with the same number that is marked on the extinguisher.

§ 108.639 Emergency lights.

Each emergency light must be marked: "E".

§ 108.641 Instructions for changing steering gear.

Instructions stating in order the different steps to be taken for changing to emergency and secondary steering gear must be posted in the steering gear room and at each secondary steering station in 1.3 centimeters (½ inch) letters and numerals of contrasting color to the background.

§ 108.643 Rudder orders.

At each steering station, the direction which the wheel or steering device must be moved for right rudder or left rudder must be marked in letters of contrasting color to the background on the wheel or steering device or in a place that is directly in the helmsman's line of vision to indicate "Right Rudder" and "Left Rudder".

§ 108.645 Lifeboats.

(a) The bow of each lifeboat must be marked in letters and numbers of contrasting color to the background with—

(1) The name and port of registry of the unit in letters at least 7.5 centimeters (3 inches) high;

(2) The number of the boat in numbers at least 7.5 centimeters (3 inches) high; and

(3) Its cubic capacity and the number of persons allowed in the boat in letters and numbers at least 4 centimeters (1½ inches) high.

(b) Each mechanical disengaging apparatus control lever must be—

(1) colored red; and

(2) marked in raised letters of a contrasting color to the background: "DANGER—LEVER DROPS BOAT" or "DANGER—LEVER RELEASES HOOKS."

(c) The location of each mechanical disengaging apparatus control lever must be marked by a white band approximately 30 centimeters (12 inches) wide from the keel to each side bench.

§ 108.647 Inflatable liferafts.

Each inflatable liferaft must be identified by marking: "INFLATABLE LIFERAFT NO. __ . . . PERSONS CAPACITY" next to the liferaft—

(a) in letters at least 4 centimeters (1½ inches) high; and

(b) in a contrasting color to the background.

§ 108.649 Life preservers and ring life buoys.

(a) Each life preserver must be marked in a color in contrast to the life preserver with the unit's name.

(b) Each locker box or closet used for stowing life preservers must be marked "LIFE PRESERVERS".

(c) Each ring life buoy must be marked in a color in contrast to the ring life buoy with the unit's name and port of registry.

§ 108.651 Portable magazine chests.

Each portable magazine chest must be marked: "PORTABLE MAGAZINE CHEST — FLAMMABLE — KEEP LIGHTS AND FIRE AWAY" in letters at least 7.5 centimeters (3 inches) high.

§ 108.653 Helicopter facilities.

(a) Each helicopter fueling facility must be marked adjacent to the fueling hose storage: "Warning—Helicopter Fueling Station—Keep Lights and Fire Away".

(b) Each storage tank for helicopter fuel must be marked: "Danger—Flammable Liquid".

(c) Each access to a helicopter landing area must be marked: "Beware Of Tail Rotor."

(d) Each marking required by this section must be in letters at least 7.5 centimeters (3 inches) high.

§ 108.655 Liferaft instructions.

Placards approved by the Commandant that contain instructions for launching and inflating inflatable liferafts must be conspicuously posted.

§ 108.657 Unit markings.

The hull of each unit must be marked in accordance with Parts 67 and 69 of this chapter.

§ 108.659 Breeches buoy and lifesaving signal instructions.

Instructions on Form CG–811 for the use of breeches buoys and lifesaving signals must be posted so that they can be easily seen in the pilothouse or control room, engine room, and each living space.

§ 108.661 Unit markings: draft marks.

(a) Each unit must have draft marks for each foot of immersion—

(1) If the unit is a surfact unit, on both the port and starboard sides of the stem and the stern-post or rudderpost or at any other place at the stern of the unit as may be necessary for easy observance;

(2) If the unit is a self-elevating unit, near each corner of the hull but not more than 4 required; and

(3) If the unit is a column-stabilized unit, on each corner column, continuing to the footing or lower displacement hull.

(b) The bottom of each mark must be at the draft indicated by that mark.

(c) Each mark must be—

(1) In numerals 15 centimeters (6 inches) high ;and

(2) In contrasting color to the background.

(d) For the purposes of this section, "draft" means the distance from the bottom of the keel or the lowest shell plate on the outer surface of the unit to the surface of the water, except that where a unit has a permanent appendage extending below the bottom of the keel, "draft" means the distance from the lowest part of the appendage to the surface of the water.

§ 108.663 Unit markings: load line.

Each unit that is assigned a load line must have the load line marked in accordance with Part 42 of this Chapter.

§ 108.665 Appliances for watertight integrity.

Each appliance for watertight integrity must be marked in letters of contrasting color to the background: "Keep Closed".

Subpart K—Miscellaneous Equipment

§ 108.697 Buoyant work vest.

Each buoyant work vest on a unit must be approved under § 160.053 of this chapter.

§ 108.699 Substitution of life preservers.

A work vest may not be substituted for a required life preserver—

(a) for the life saving equipment requirements of this part; or

(b) for use during drills and emergencies.

§ 108.701 Sounding equipment.

Each self-propelled unit must have a mechanical or electronic sounding apparatus.

§ 108.703 Self-contained breathing apparatus.

(a) Each unit must have a self-contained breathing apparatus to be used as protection from gas leaking from a refrigeration unit.

(b) The self-contained breathing apparatus required in § 108.497 may be used for this purpose.

§ 108.705 Anchors, chains, wire rope, and hausers.

(a) Each unit must be fitted with anchors, chains, wire rope, and hausers in agreement with the standards established by the American Bureau of Shipping.

(b) Units which are equipped with anchors used as operational equipment are not required to have additional anchors if the operational anchors meet the requirements of paragraph (a).

§ 108.707 First aid kit.

Each unit must have a first-aid kit approved by the Mining Enforcement Safety Administration of a size suitable for the number of persons on the unit that is stowed in a location that is accessible to persons on board.

§ 108.709 Litter.

Each unit must have a Stokes litter that is stowed in a location that is accessible to the persons on board.

§ 108.711 Pilot ladders.

(a) Except as provided in paragraph (c), each unit which normally uses a pilot must have a pilot ladder in addition to the ladders required in § 108.525.

(b) Each unit which has a pilot ladder must have the following:

(1) Spreaders.

(2) A man rope.

(3) A safety line.

(c) A pilot ladder is not required if—

(1) the vertical distance from sea level to the deck of the unit is more than 9 meters (approximately 30 feet); or

(2) there is no flat vertical surface to support a pilot ladder.

(d) Illumination over the side of the unit and on the deck where the pilot boards the unit must be provided.

§ 108.713 International code of signals.

Each vessel on an international voyage which is required to carry a radiotelegraph or radiotelephone installation in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

§ 108.715 Magnetic compass and gyrocompass.

(a) Each self-propelled unit in ocean or coastwise service must have a magnetic compass.

(b) Each self-propelled unit of 1,600 gross tons and over in ocean or coastwise service must have a gyrocompass in addition to the magnetic compass required in paragraph (a).

(c) Each unit that is required to have a gyrocompass must have an illuminated repeater for the gyrocompass that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

§ 108.717 Radar.

Each self-propelled unit of 1,600 gross tons and over in ocean or coastwise service must have—

(a) A marine radar system for surface navigation; and

(b) Facilities on the bridge for plotting radar readings.

PART 109—OPERATIONS

Subpart A—General

§ 109.101 Applicability.

No unit may be operated unless it complies with the regulations in this part.

§ 109.103 Safety construction certificate.

No unit may embark on an international voyage unless it is issued—

(1) a safety construction certificate by the American Bureau of Shipping or the Coast Guard; and

(2) a safety equipment certification by the Coast Guard.

§ 109.107 Designation of master or person in charge.

The owner of a unit or his agent shall designate an individual to be the master or person in charge of the unit.

§ 109.109 Responsibilities of master or person in charge.

The master or person in charge shall be fully cognizant of the provisions in the Operating Manual required by § 109.121.

§ 109.121 Operating manual.

(a) An operating manual must be prepared for each unit.

(b) Each operating manual must be approved by the Coast Guard.

(c) The operating manual must contain guidance for the safe operation of the unit.

(d) The operating manual must contain the following information:

(1) A general description of the unit, including lightship data.

(2) Data for each operating mode, including design loading, wave height, and draft.

(3) General arrangement showing watertight compartments, closures, vents, permanent ballast, and allowable deck loadings.

(4) Hydrostatic curves or equivalents.

(5) Capacity plan showing capacities of tanks, center of gravity, and free surface corrections.

(6) Instructions for the operation of the unit while—

(i) preparing for the passage of a severe storm, including the specific actions and approximate length of time necessary to attain each level of preparedness; and

(ii) changing operating condition.

(7) Stability information setting forth maximum KG versus draft curve, or other parameters based upon compliance with the intact and damaged stability criteria.

(8) Examples of loading conditions for each mode of operation, and a means for evaluation of other loading conditions.

(9) Inherent limitations of operation.

(10) General guidance and precautions regarding unintentional flooding.

Subpart B—Tests, Drills, and Inspections

§ 109.201 Steering gear, whistles, general alarm, and means of communication.

The master or person in charge shall ensure that—

(a) Steering gear, whistles, general alarm bells, and means of communication beaween the bridge or control room and the engine room on self propelled units are inspected and tested—

(1) Within 12 hours before getting under way; and

(2) At least once each week if under way or on station; and

(b) Whistles and general alarm bells on all other units are inspected examined and tested at least once each week.

§ 109.203 Sanitation.

(a) The master or person in charge shall ensure that the accommodation spaces are in a clean and sanitary condition.

(b) The chief engineer shall ensure that the engineering spaces are in a clean and sanitary condition.

§ 109.205 Inspection of boilers and machinery.

The chief engineer or engineer in charge, before he assumes charge of the boilers and machinery of a unit shall inspect the boilers and machinery and report to the master or person in charge and the Officer in Charge, Marine Inspection, any parts that are not in operating condition.

§ 109.207 Line-throwing equipment.

(a) The master or person in charge shall ensure that personnel are instructed in the use of line-throwing equipment.

(b) The master or person in charge shall ensure that each line throwing appliance is tested by firing it at least once every four months. A service line may not be used for test firings.

§ 109.208 EPIRB.

The master or person in charge shall ensure that each EPIRB required in § 108.523 of this subchapter is tested monthly using the integrated test circuit and output indicator.

§ 109.209 Appliances for watertight integrity.

(a) Before getting underway, the master or person in charge shall ensure that each appliance for watertight integrity is closed and watertight.

(b) If existing conditions warrant, the master or person in charge may permit appliances for watertight integrity to be used while afloat.

§ 109.211 Testing of emergency lighting and power systems.

The master or person in charge shall ensure that—

(a) Each emergency lighting and each emergency power system is tested at least once each week;

(b) Each emergency generator is tested at least once each month by operating it under load for at least 2 hours; and

(c) Each storage battery for emergency lighting and power systems is tested under actual connected load for—

(1) A period of at least 12 hours; or

(2) A period of at least 2 hours if—

(i) After the 2 hour test period, voltage values under load or electrolyte specific gravity are measured and these values may be extrapolated to approximate the values that would result following a 12 hour test period; and

(ii) The capacity of the battery corresponding to the extrapolated values of voltage or specific gravity are sufficient to supply the actual connected load for 12 hours.

§ 109.213 Fire drill.

The master or person in charge shall conduct a fire drill at least once each week and shall ensure that—

(a) All personnel report to their stations, and demonstrate their ability to perform the duties assigned to them in the station bill;

(b) Each fire pump is started;

(c) Each item of rescue and safety equipment is brought from the emergency lockers; and

(d) Each watertight door which is in use while the unit is underway is operated.

§ 109.215 Boat drill.

The master or person in charge shall conduct a boat drill at least once each week, and shall ensure that—

(a) All personnel report to their stations, and demonstrate their ability to perform the duties assigned to them in the station bill;

(b) Each lifeboat is prepared for use;

(c) Weather permitting, at least one lifeboat is lowered, released and its engine started and operated; and

(d) Each person not assigned duties in the station bill is instructed in the use of life preservers.

§ 109.217 Lifeboats and lifeboat launching equipment-inspection and testing.

The master or person in charge shall ensure that—

(a) Each lifeboat is lowered to the water at least once each three months;

(b) Each lifeboat is properly equipped;

(c) The motor of each motor propelled lifeboat is operated in the ahead and the astern position for at least 5 minutes at least once each week;

(d) Each lifeboat is cleaned and inspected at least once each year;

(e) The fuel tank of each motor propelled lifeboat is emptied, and the fuel is changed at least once each year;

(f) Each rechargeable battery for each lifeboat radio is fully charged at least once each week; and

(g) Each lifeboat radio transmitter is tested at least once each week.

§ 109.219 Inflatable liferaft: servicing.

The master or person in charge shall ensure that each inflatable liferaft is serviced every 12 months or not later than the next inspection for certification provided the time since the date of the last servicing does not exceed 15 months. Except in an emergency, no servicing may be done aboard the unit.

§ 109.221 Electric power operated winches.

(a) The master or person in charge shall ensure that each lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches, is inspected at least once each 3 months.

(b) The inspection required in paragraph (a) of this section must include the removal of drain plugs from the electrical enclosures of each lifeboat winch control apparatus.

§ 109.223 Fire fighting equipment.

The master or person in charge shall ensure that each hand portable fire extinguisher, semi-portable fire-extinguisher, and fixed fire-extinguishing system is tested and inspected at least once each twelve months.

Subpart C—Operation and Stowage of Safety Equipment

§ 109.301 Maintenance of equipment.

The master or person in charge shall ensure that each item of lifesaving and firefighting equipment required by this subchapter is maintained in operative condition.

§ 109.305 Obstruction on launching decks.

The master or person in charge shall ensure that each deck from which lifeboats and liferafts are launched is kept clear of any obstruction that interferes with the immediate launching of lifeboats and liferafts.

§ 109.307 EPIRB.

The master or person in charge shall ensure that—

(a) Each EPIRB required in § 108.523 is stowed in a manner so that it will float free if the unit sinks; and

(b) Each battery of the EPIRB is replaced before the date marked on the outside of the body of the EPIRB, or after the EPIRB is used.

§ 109.313 Stowage of life preservers.

The master or person in charge shall ensure that each life preserver required in § 108.514 for each person assigned a berth, is stowed in his berthing area as provided in § 108.514(b), and that the remaining life preservers required in § 108.514(a) are stowed in each work area and watch station as provided in § 108.514(b).

§ 109.317 Replacement of distress signal and self-activated smoke signals.

The master or person in charge shall ensure that each distress signal and self-activated smoke signal is replaced not later than 36 months after the date of manufacture.

§ 109.320 Line-throwing equipment.

The master or person in charge shall ensure that—

(a) The line-throwing equipment required by § 108.517 is stowed in a readily accessible location; and

(b) The service life of rockets for impulse projected rocket type equipment is limited to a period of four years from the date of manufacture, and replacement of out-dated items is made at the first arrival in the United States, except that replacement is made in all cases within twelve months after the date of expiration.

§ 109.321 Portable radio.

The master or person in charge shall ensure that the portable radio required in § 108.519 is—

(a) Stowed in the radioroom, bridge, or a protected location near a lifeboat; and

(b) Readily accessible for transfer to a lifeboat.

§ 109.323 Manning of lifeboats and inflatable liferafts.

The master or person in charge shall—

(a) Assign to each lifeboat and each inflatable liferaft, to which seat assignments are made in the station bill—

(1) A licensed deck officer, able seaman, or certificated lifeboatman to command the lifeboat;

(2) A licensed deck officer, able seaman, or certificated lifeboatman as second in command, if the lifeboat has a capacity of more than 40 persons;

(3) A person who can operate the lifeboat's motor; and

(4) A person who can operate the portable radio, if the lifeboat has a portable radio; and

(b) Ensure that the person assigned to command a lifeboat has a list of the persons assigned to seats in the lifeboat or liferaft.

§ 109.325 Persons in command of lifeboats or liferafts.

A person assigned to command a lifeboat or liferaft shall ensure that each person assigned to the lifeboat or liferaft can perform the duties assigned to that person.

§ 109.327 Davit launched liferafts.

The master or person in charge shall ensure that no more than two davit launched liferafts are launched from each launching station.

§ 109.329 Fire pumps.

The master or person in charge shall ensure that at least one of the fire pumps required in § 108.415 is ready for use on the fire main system at all times.

§ 109.331 Firehoses and hydrants.

The master or person in charge shall ensure that—

(a) At least one length of firehose with a combination nozzle is connected to each fire hydrant required by this subchapter, at all times, except that during heavy weather a firehose in an exposed location may be temporarily removed from the first hydrant and stowed in an accessible, nearby location;

(b) A fire hose required by this subchapter is not used for any purpose other than firefighting, fire drills, and testing;

(c) Access to each fire hydrant is not blocked;

(d) Each firehose, except a firehose temporarily removed from an exposed location, is stowed on a rack or reel required by this subchapter; and

(e) Each low velocity spray applicator for a fire hose nozzle is attached to the nozzle or stowed next to the fire hydrant to which the fire hose is attached.

§ 109.333 Fire main cutoff valves.

The master or person in charge shall ensure that each fire main cutoff valve is open and sealed to prevent closing, except that a cutoff valve may be closed to protect the portion of the fire main system on an exposed deck from freezing.

§ 109.334 Working over water.

The master or person in charge shall ensure that each person working over the water is wearing a life preserver or a buoyant work vest.

§ 109.335 Stowage of work vests.

The master or person in charge shall ensure that no work vest is stowed where life preservers are stowed.

§ 109.337 Fireman's outfit.

The master or person in charge shall ensure that—

(a) At least 2 persons who are trained in the use of the fireman's outfit are on board at all times; and

(b) Each fireman's outfit and its spare equipment is stowed in a separate and accessible location.

(c) A fireman's outfit is not used for any purpose other than fire fighting except as provided in § 108.703.

§ 109.339 Location of fire axes.

The master or person in charge shall ensure that the fire axes required in § 108.499 of this subchapter are located in the enclosures for fire hoses marked in accordance with § 108.633 of this subchapter, if the fire axes are not located in plain view.

§ 109.341 Chain suspension ladders.

The master or person in charge shall ensure that each chain suspension ladder required in § 108.525(a) of this subchapter is—

(a) Kept ready for immediate use; and

(b) Stowed near the lifeboat or inflatable liferaft davits.

§ 109.343 Pilot ladders and equipment.

The master or person in charge shall ensure that the equipment required in § 108.711(b) is kept available for use with the pilot ladder required in § 108.711(a).

§ 109.345 Pilot ladder use.

The master or person in charge shall ensure that—

(a) A pilot ladder, when in use, is secured so that each step rests firmly against the side of the unit;

(b) a pilot boards a unit by means of an accommodation ladder or personnel transfer equipment if a pilot ladder is not used.

Subpart D—Reports, Notifications, and Records

REPORTS AND NOTIFICATIONS

§ 109.411 Notice of casualty.

(a) The owner, agent, master, or person in charge of a unit that is involved in a marine casualty shall notify the Officer in Charge, Marine Inspection, as soon as possible after the casualty occurs, if the casualty involves any of the following:

(1) Damage to property exceeding $1,500.

(2) Damage affecting the seaworthiness of the unit.

(3) Stranding or grounding of the unit, except when the unit is grounded to conduct normal operations.

(4) Loss of life.

(5) Injury to any person incapacitating the person for more than 72 hours after the injury, except injury to a harbor worker not resulting from a unit casualty or failure of unit equipment.

(b) The notice required by this section must contain the following:

(1) Name and official number of the unit.

(2) Name of the owner or agent of the unit.

(3) Description of the casualty, including cause.

(4) Location of the unit at the time of the casualty.

(5) Nature and extent of injury to persons.

(6) Damage to property.

(c) The notice required by this section is not required to be submitted if the written report of casualty required by § 109.413 is submitted without delay.

§ 109.413 Written report of casualty.

The master or person in charge of a unit for which a report of casualty is made under § 109.411 of this subpart shall submit a report to the Officer in Charge, Marine Inspection, as soon as possible after the casualty occurs, on—

(a) Form CG-924E if the casualty involves injury to persons or loss of life; and

(b) Form CG-2692 if the casualty involves damage to property or grounding or stranding of a vessel.

§ 109.415 Retention of records after casualty.

(a) The owner, agent, master, or person in charge of a unit for which a report of casualty is made under § 109.411 of this subpart shall ensure that all records maintained on the unit are retained on board the unit for at least 3 months after the report of casualty is made or until advised by the Officer in Charge, Marine Inspection, that records need not be retained on board.

(b) The records which must be retained in accordance with paragraph (a) of this section include:

(1) Rough and smooth deck log.

(2) Rough and smooth engineroom log.

(3) Tour reports.

(4) Bell books.

(5) Navigation charts in use at the time of casualty.

(6) Navigation work books.

(7) Compass deviation cards.

(8) Gyrocompass records.

(9) Storage plans.

(10) Record of drafts.

(11) Notices to mariners.

(12) Radiograms sent and received.

(13) The radio log.

(14) Personnel list.

(15) Crane record book.

(c) The owner, agent, master, or person in charge shall, upon request, make the records described in this section available for examination by any Coast Guard official authorized to investigate the casualty.

§ 109.417 Report of damage to aid to navigation.

If a unit collides with an aid to navigation maintained by the Coast Guard, the master or person in charge shall report the collision to the Officer in Charge, Marine Inspection.

§ 109.419 Report of unsafe machinery.

If a boiler, unfired pressure vessel, or other machinery on a unit is unsafe to operate, the master or person in charge shall report the existence of the unsafe condition to the Officer in Charge, Marine Inspection.

§ 109.421 Report of repairs to boilers and pressure vessels.

Before making repairs, except normal repairs and maintenance such as replacement of valves or pressure seals, to boilers or unfired pressure vessels in accordance with § 50.05-10 of this chapter, the master or person in charge shall report the nature of the repairs to the Officer in Charge, Marine Inspection.

§ 109.423 Report of breaking safety valve seal.

(a) If a required seal on a safety valve is broken, the chief engineer or engineer in charge shall notify the Officer in Charge, Marine Inspection.

(b) The notice must—

(1) State the reason for breaking the seal; and

(2) Request that the valve be examined and adjusted.

§ 109.425 Repairs and alterations—emergency equipment.

(a) Before making repairs or alterations, except emergency repairs or alterations, to lifesaving, fire detecting or extinguishing equipment, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

(b) When emergency repairs or alterations to livesaving, fire detecting or fire extinguishing equipment have been made, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

RECORDS

§ 109.431 Logbook.

(a) The master or person in charge of a unit that is required by 46 U.S.C. 201 to have an official log book shall maintain the logbook on Form CG-706. When the voyage is completed, the master or person in charge shall file the logbook with the Officer in Charge, Marine Inspection.

(b) The master or person in charge of a unit that is not required by 46 U.S.C. 201 to have an official logbook, shall maintain, on board, an unofficial logbook for making the entries required by this subpart, until the unit is reinspected or inspected for certification.

§ 109.433 Logbook entries.[*]

The master or person in charge shall ensure that the following entries are made in the logbook required by this subpart:

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[*] NOTE.—R.S. 4290 (46 U.S.C. 201) requires that certain entries be made in an official logbook, in addition to the entries required by this section; and R.S. 4291 (46 U.S.C. 202) prescribes the manner of making those entries.

(a) The date of each test of the steering gear, whistle, general alarm, and communications equipment and the condition of the equipment.

(b) The time and date of each opening and closing of each appliance for watertight integrity not fitted with a remote operating control or alarm system and the reasons for the action.

(c) The date of each test of emergency lighting and power systems and the condition and performance of the equipment.

(d) The following information pertaining to each fire drill:

(1) Date and hour of each drill.

(2) Duration of each drill.

(3) The condition of all fire fighting equipment, watertight door mechanisms, and valves used during each drill.

(e) The following information pertaining to each boat drill:

(1) Date and hour of each drill.

(2) Duration of each drill.

(3) The number of each lifeboat swung out during each drill.

(4) The number of each lifeboat lowered during each drill.

(5) Length of time that each motor propelled lifeboat was operated during each drill.

(6) The condition of lifesaving equipment used during each drill.

(f) The date of the lifeboat equipment examination required in § 109.217 of this part.

(g) If a drill required in § 109.213 or § 109.215 of this part is not held, the reasons for not holding the drill.

(h) If a drill required in § 109.213 or § 109.215 of this part is not completed, the reasons for not completing the drill, and the date and a description of the incomplete drill.

(i) The date of each lifeboat winch inspection required in § 109.221 of this part and the condition of the winch.

(j) The fore and aft drafts, the position of the loading marks in relation to the surface of the water, and the density of the water in which the vessel is floating, if in fresh or brackish water.

(k) The date of each inspection of each accommodation space.

(l) The date of each inspection required in § 109.573 of this subpart, if performed by the master or person in charge.

NOTE: R.S. 4290 (46 U.S.C. 201) requires that certain entries be made in an official logbook, in addition to the entries required by this section; and R.S. 4291 (46 U.S.C. 202) prescribes the manner of making those entries.

§ 109.435 Record of fire fighting equipment inspection.

(a) The master or person in charge shall ensure that a record of each test and inspection required in § 109.223 of this part is maintained on board, until the unit is reinspected or inspected for certification.

(b) The record required in paragraph (a) of this section must show—

(1) The date of each test and inspection;

(2) The number or other identification of each item of equipment tested or inspected; and

(3) The name of the person, and the company he represents if any, who conducts the test or inspection.

§ 109.437 Crane record book.

The master or person in charge shall ensure that the following are maintained in a crane record book:

(a) Descriptive information which will identify each crane including—

(1) The API name plate data required by Section 11 of API Spec. 2C, Second Edition, February 1972; and

(2) The rated load chart for each line reeving.

(b) Information required by Section 3 of the American Petroleum Institute Recommended Practice for Operation and Maintenance of Offshore Cranes, API RP 2D, First Edition, October 1972.

(c) Dates and results of frequent inspections and tests.

(d) Dates and results of periodic inspections and tests.

(e) Date and result of each rated load test.

(f) Date and description of each replacement or renewal of wire rope, hooks, and other load components.

(g) Date and description of each failure of the crane, or any component or safety feature.

(h) Date and description of each repair to the crane structure, boom, or equipment.

(i) Each record and original certificate, or certified copy of a certificate of manufacturers or testing laboratories, companies, or organizations for—

(1) Loose gear;

(2) Wire rope; and

(3) The annealing of wrought iron gear.

Subpart E—Station Bill

§ 109.501 Station bill: duties of personnel.

(a) The station bill must set forth the duties and station of each person during emergencies, including an assigned seat in a lifeboat or liferaft for each person on the unit.

(b) The duties must, as far as possible, be comparable with the regular work of the individual.

(c) These duties must include:

(1) Closing airports, watertight doors, scuppers, and sanitary and other discharges that lead through the unit's hull.

(2) Stopping fans and ventilating systems.

(3) Operating all safety equipment.

(4) Preparing lifeboats and liferafts for launching.

(5) Extinguishing fires.

(6) Warning personnel of the emergency.

(7) Instructing all personnel on use and wearing of their life preservers.

(8) Directing personnel to appointed stations.

(9) Carrying the portable radio apparatus, required in § 108.519, to a lifeboat.

§ 109.503 Station bill: emergency signals.

(a) The station bill must set forth signals that—

(1) Call personnel to their stations; and

(2) Direct personnel at their stations.

(b) Emergency stations signals are established as follows:

(1) The signal to man emergency stations is a rapid succession of short soundings of both the general alarm bell and the whistle, if a whistle is installed, for a period of not less than 10 seconds.

(2) The signal to secure from emergency stations is the sounding of both the general alarm bell and the whistle, if a whistle is installed, three times.

(c) The abandon unit stations signals are established as follows;

(1) The signal to man abandon unit stations is a continuous sounding of both the general alarm and the whistle, if a whistle is installed.

(2) If whistle signals are used to direct the handling of lifeboats, they must be—

(i) One short blast to lower lifeboats; and

(ii) Two short blasts to stop lowering the lifeboats.

(3) The signal to secure from abandon unit stations is the sounding of both the general alarm bell and the whistle, if a whistle is installed, three times.

§ 109.505 Station bill: general.

The master or person in charge shall—

(a) Ensure that the station bill is prepared and maintained;

(b) Sign the station bill;

(c) Ensure that the station bill is posted in conspicuous locations on the unit; and

(d) Ensure that all persons on the unit are familiar with the station bill.

Subpart F—Cranes and Powered Industrial Trucks

§ 109.521 Cranes: general.

The master or person in charge shall ensure that each crane is operated and maintained in accordance with the API Recommended Practice for Operation and Maintenance of Offshore Cranes, API RP 2D, First Edition.

§ 109.525 Cranes: working loads.

The master or person in charge shall ensure that tables indicating the maximum safe working loads for the various working angles of the boom, where the boom is rated at varying capacities depending on the radius, and the maximum and minimum radius at which the boom may be safely used, are conspicuously posted near the controls and are visible to the operator when working the crane.

§ 109.527 Cranes: operator designation.

(a) The master or person in charge shall designate, in writing, each crane operator.

(b) The master or person in charge shall ensure that only designated operators operate cranes.

(c) The master or person in charge shall ensure that each designated operator is familiar with the provisions of the API Recommended Practice for Operation and Maintenance of Offshore Cranes, API RP 2D, First Edition.

§ 109.529 Powered industrial trucks: use.

The master or person in charge shall ensure that—

(a) Only "EX" designated trucks are used in Class I, Division 1 spaces; and

(b) Only "EE", "EX", or "DS" designated trucks are used in—

(1) Class I, Division 2 spaces; and

(2) In spaces that are within the periphery of a Class I, Division 1 space.

§ 109.531 Powered industrial trucks: ventilated spaces.

The master or person in charge shall ensure that diesel powered industrial trucks are operated only in ventilated spaces.

§ 109.533 Powered industrial trucks: rated lifting capacity.

The master or person in charge shall ensure that the rated lifting capacity of each powered industrial truck is posted on each truck.

§ 109.535 Designated refueling areas for diesel powered industrial trucks.

The master or person in charge shall designate refueling areas for diesel powered industrial trucks only on—

(a) The weather deck; or

(b) In spaces that are—

(1) Ventilated to prevent accumulation of vapors; and

(2) Located at least 3 meters (10 feet) from a source of ignition.

§ 109.537 Refueling diesel powered industrial trucks: operations.

The master or person in charge shall ensure that—

(a) Each diesel powered industrial truck is refueled only in a refueling area designated under § 109.535;

(b) Before a diesel powered industrial truck is refueled its engine is stopped;

(c) If refueling operations are conducted in an encolsed, space, no truck engine is operated in the space;

(d) Diesel powered industrial trucks are refueled from—

(1) A portable container of five gallons or less that has a self-closing spout; or

(2) If the refueling operation is on the weather deck, a pump with a hose that has a pistol grip, deadman nozzle; and

(e) Each designated refueling area has at least one four pound, dry chemical, portable fire extinguisher available during refueling operations.

§ 109.539 Recharging battery powered industrial trucks.

The master or person in charge shall ensure that batteries of powered industrial trucks are charged in a ventilated area that is not a Class I location.

Subpart G—Miscellaneous

§ 109.555 Propulsion boilers.

The master or person in charge and the engineer in charge shall ensure that—

(a) Steam pressure does not exceed that allowed by the Certificate of Inspection; and

(b) Except as provided in § 109.423, the safety valves, once set and sealed by the inspector, are not tampered with or made inoperative.

§ 109.557 Flammable and combustible liquids: carriage.

The master or person in charge shall ensure that—

(a) Flammable and combustible liquids in bulk are not carried, except as allowed by endorsement to the Certificate of Inspection;

(b) Portable tanks are handled and stowed in accordance with Subparts 98.30 and 98.35 of this Chapter, and 49 CFR Parts 170 to 189; and

(c) Grades A and lower liquids are—

(1) Authorized, by the Commandant, to be carried; and

(2) Carried only in fixed independent or integral trunks.

§ 109.558 Stores and supplies.

The master or person in charge shall ensure that dangerous articles, substances, and combustible liquids which are used on board a unit, except those used in industrial operations and as fuel for the unit's machinery, are accepted, handled, stowed, and used only in accordance with the provisions for cargo vessels in Part 147 of this Chapter.

§ 109.559 Explosives and radioactive materials.

(a) Except as authorized by the master or person in charge, no person may use explosives or radioactive materials and equipment on a unit.

(b) The master or person in charge shall ensure that explosives and radioactive materials and equipment are stored only in accordance with the provisions for cargo vessels in Part 147 of this Chapter.

§ 109.563 Posting of documents.

The master or person in charge shall ensure that the following are posted under glass in the pilot house or control center:

(a) General arrangement plans for each deck showing—

(1) Each fire retardant bulkhead;

(2) Each fire detecting, manual alarm, and fire extinguishing system;

(3) Each fire door;

(4) Each means of ingress to compartments; and

(5) Each ventilating system, including the location of each damper, fan, and remote means of stopping the fans.

(b) The stability letter issued by the Coast Guard.

(c) Each SOLAS and Coast Guard certificate issued to the unit.

§ 109.564 Maneuvering characteristics.

(a) The master or person in charge of each self-propelled unit of 1,600 gross tons and over shall ensure that a maneuvering information fact sheet is prominently displayed in the pilothouse.

(b) For surface type units, the maneuvering information in Part 97.19 of this chapter must be displayed.

(c) The maneuvering information requirements for column stabilized, self-elevating, and other units of unusual design will be specified on a case by case basis.

§ 109.565 Charts and nautical publications.

(a) The master or person in charge of a self-propelled unit shall ensure that the unit has the following:

(1) Charts.

(2) Sailing directions.

(3) Coast pilots.

(4) Light lists.

(5) Notices to mariners.

(6) Tide tables.

(7) Current tables.

(8) All other nautical publications necessary.[1]

NOTE 1.—For U.S. units in or on the navigable waters of the United States, see 33 CFR 164.33.

(b) The master or person in charge shall ensure that the items required in paragraph (a) are adequate, up-to-date, and appropriate for the intended voyage of the unit.

§ 109.573 Riveting, welding, and burning operations.

Except as allowed by this section—

(a) The master or person in charge shall ensure that there is no riveting, welding, or burning—

(1) In a fuel tank;

(2) On the boundary of a fuel tank;

(3) On pipelines, heating coils, pumps, fittings, or other appurtenances connected to fuel tanks; or

(4) On the boundary of spaces adjacent to tanks carrying Grades A, B, or C flammable liquids in bulk.

(b) The operations prohibited in paragraph (a) of this section may be allowed if—

(1) An inspection conducted in accordance with the "Standard for the Control of Gas Hazards on Vessels to be Repaired," NFPA No. 306, is made—

(i) In ports or navigable waters of the United States, its territories and possessions, by—

(A) A marine chemist certified by the National Fire Protection Association; or

(B) If a certified marine chemist is not available, a person designated by the Officer in Charge, Marine Inspection; or

(ii) In all other locations by—

(A) A marine chemist certified by the National Fire Protection Association;

(B) If a certified marine chemist is not available, a person designated by the Officer in Charge, Marine Inspection; or

(C) If the persons required in paragraph (b)(ii)(A) and (B) are not available, the master or person in charge, or welding supervisor designated, in writing; and

(2) A certificate is issued by the person conducting the inspection stating—

(i) That he conducted the inspection in accordance with the standard in paragraph (b)(1);

(ii) The operations that may be conducted; and

(iii) A list of precautions to be followed during the operations;

(c) The master or person in charge shall ensure that the precautions in paragraph (b)(2)(iii) are followed.

§ 109.575 Accumulation of liquids on helicopter decks.

The master or person in charge shall ensure that no liquids are allowed to accumulate on the helicopter decks.

§ 109.577 Helicopter fueling.

(a) The master or person in charge shall designate persons to conduct helicopter fueling operations.

(b) No person may be designated to conduct such operations unless he is familiar with the fueling procedures and safety precautions.

§ 109.581 Fixed ballast.

(a) The master or person in charge shall ensure that fixed ballast is not removed from the unit or relocated unless the removal or relocation is approved by the Commandant.

(b) Fixed ballast may be moved for examination or repair of the unit if done in the presence of a marine inspector.

§ 109.583 Prevention of oil pollution.

The master or person in charge shall ensure that the unit is operated to meet the requirements in—

(a) Section 311 of the Federal Water Pollution Control Act, as amended (86 Stat. 816; 33 U.S.C. 1321);

(b) Section 12 of the Oil Pollution Act, 1961, as amended (75 Stat. 404; 33 U.S.C. 1011); and

(c) 33 CFR Parts 151, 155 and 156.

§ 109.585 Use of auto pilot.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in areas of high traffic density, conditions of restricted visibility, and all other hazardous navigational situations, the master or person in charge shall ensure that—

(a) It is possible to immediately establish manual control of the unit's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of, the officer of the watch.

§ 109.587 Use of sleeping spaces.

The master or person in charge of a self-elevating unit shall ensure that no accommodation space below the main deck used as a sleeping space is used when the unit is in the floating condition.

(Sec. 2, 87 Stat. 418 (46 U.S.C. 86), sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367), R.S. 4405, as amended (46 U.S.C. 375), R.S. 4423, as amended (46 U.S.C. 400), R.S. 4429, as amended (46 U.S.C. 407), R.S. 4430, as amended (46 U.S.C. 408), 88 Stat. 423 (46 U.S.C. 411), R.S. 4434, as amended (46 U.S.C. 412), R.S. 4462, as amended (46 U.S.C. 416), sec. 1, 73 Stat. 475 (46 U.S.C. 481), sec. 4, 67 Stat. 462 (43 U.S.C. 1333(e)); 49 CFR 1.46(b) and (n)(6).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: April 22, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-12251 Filed 4-26-77;8:45 am]

federal register

MONDAY, MAY 2, 1977

PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES

1934

ENVIRONMENTAL PROTECTION AGENCY

Office of Solid Waste

■

HAZARDOUS WASTE GUIDELINES AND REGULATIONS

Advance Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

Office of Solid Waste

[40 CFR Part 250]

[FRL 710-4]

HAZARDOUS WASTE GUIDELINES AND REGULATIONS

Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: This Notice begins the process of developing guidelines and regulations for the management of hazardous wastes. These regulatory actions are required under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976.

DATES: Comments received on or before July 1, 1977 will be of primary importance in developing these regulations. All comments will be available for public inspection by contacting the Docket Section at the address below.

ADDRESSEES: All comments should be addressed to the individual and docket numbers listed below: Section 3001—Mr. Alan Corson, Section 3002—Mr. Harry Trask, Section 3003—Mr. Harry Trask, Section 3004—Mr. John Schaum, Section 3005—Mr. William Wallace, Section 3006—Mr. Murray Newton, at the following address: Hazardous Waste Management Division (AW-465), Office of Solid Waste, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. For correspondence relating to more than one section, use the name of only one individual, but cite specific docket numbers in the response.

FOR FURTHER INFORMATION CONTACT:

> Persons wishing to discuss these questions may reach the individuals listed above by calling the following telephone numbers: Mr. Alan Corson (202-755-9187) Mr. Harry Trask (202-755-9187), Mr. John Schaum (202-755-9203), Mr. William Wallace (202-755-9190), Mr. Murray Newton (202-755-9190).

SUPPLEMENTARY INFORMATION: This Notice creates a new Part 250, "Hazardous Waste Guidelines and Regulations," for the purpose of soliciting information, data, case studies, operating experiences, and other public input as to the nature and scope of guidelines and regulations to be developed for the control of hazardous wastes. Congress has found that hazardous wastes present special dangers to health and require a greater degree of regulation than do non-hazardous solid wastes. Consequently, Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580), mandates by April 1978, the development of a set of national standards affecting generators, transporters, and those who store, treat, and dispose of hazardous wastes. Also, by April 1978, a system for notification of EPA or States by each of these groups is required. Regulations for a permit system affecting owners and operators of hazardous waste storage, treatment, and disposal facilities are mandated as well. Such facilities are included in the permit system even if they are located on the property of the waste generators. Subtitle C also provides for the development of guidelines under which States may apply for and receive authorization to operate this control program in lieu of EPA.

This Notice is part of a broad program to solicit public participation on all aspects of the Resource Conservation and Recovery Act. This Notice includes detailed questions on each of six sections of Subtitle C. Interested persons are invited to comment on any or all of these questions, but are requested to group their responses under the docket number and name of the individual indicated for each section. Responses will be acknowledged by postcard. Also, those who comment may be contacted by EPA staff for further information or elaboration as regulation development proceeds.

SECTION 3001—CRITERIA, IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Section 3001(a) requires EPA to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous wastes. Section 3001(b) requires EPA to identify those characteristics and to list specific hazardous wastes. The purpose of section 3001 is to provide standards of judgment which can be used to identify those wastes which pose a substantial present or potential hazard to human health or the environment if not managed and disposed of properly. The criteria being considered are the following: Flammability, corrosiveness, reactivity, radioactivity, toxicity, and potential for bioaccumulation, persistence, and for causing disease. Comments are welcomed as to the suitability of these criteria or the suggestion of others which should be considered.

(1) EPA is considering the use of flash point as a criterion for waste flammability. The specific flash point chosen will relate to the potential sources of ignition existing at a landfill site, such as hot truck exhaust pipes, and heat from neutralization reactions. Comments concerning potential ignition sources and suitable flash point limits are solicited.

(2) The National Association of Corrosion Engineers has a recommended precedure to determine the rate of corrosion on test metals. A test of this sort is being considered as a measure of hazard due to leakage for long-term contained storage. EPA solicits the public's comments on the protocols for assessing waste corrosivity.

(3) Certain apparatus and protocols (such as Differential Thermal Analysis, redox electrodes, etc.) can be used to measure what is generically termed "reactivity" (i.e., oxidation potential, tendancy to auto-polymerize, tendency to undergo self-accelerating decomposition reactions, etc.). These tests may have limitations when applied to wastes. Views as to the applicability of tests of this as a measure of a waste's reactivity are solicited.

(4) Wastes tend to be of heterogenous composition, separated into several phases or viscous sludges or suspensions. Protocols must be developed for taking representative samples of such materials from such diverse containers as drums, tanks, and trucks. Suggestions and comments on sampling methods currently in use are solicited.

(5) There is evidence that environmental damage has resulted from the mixing of incompatible wastes. When this has occurred, acids or bases have usually been involved. Should neutralization be required before disposal? If so, what pH range should be chosen?

(6) EPA is considering requiring toxicity tests of the leachates of wastes believed to contain soluble hazardous constituents. EPA solicits information and comment on toxicity levels (LD50, experimental organisms, etc.) which can be used to define hazardous wastes.

(7) If it is determined that testing of wastes is necessary to define a waste as hazardous, who should bear the testing burden and expense?

(8) Section 3001 requires that criteria for both identifying the characteristics of hazardous waste and listing hazardous wastes be developed. It also requires that EPA identify the characteristics of hazardous wastes and list specific wastes. Comments are solicited on the relationship of the criteria to the characteristics and the list, i.e., what regulatory content should be attached to the list as opposed to the characteristics. What advantages may be apparent for the various ways of constituting the list (i.e., a production process, by industry, by pure compound, etc.)

SECTION 3002—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Section 3002 requires EPA to develop and implement standards applicable to hazardous waste generators. These standards are to establish requirements for: (1) Recordkeeping practices respecting quantities and constituents of wastes generated; (2) labeling and other requirements for containers; (3) identification of chemical composition of wastes; (4) use of a manifest system to control waste movement, and (5) submission of reports. The Agency is considering two approaches to the manifest system which are expected also to satisfy the recordkeeping and reporting requirements. The manifest form would be the same for both options and would require substantial information from hazardous waste generators regarding prinicipal constituents and chemical composition, together with the designation of a permitted treatment, storage, or disposal site or facility. The options differ mainly with respect to the systems approach used and the reporting requirements.

Option I would require the hazardous waste generator to provide the waste transporter with a manifest for each hazardous waste being shipped. Under this option, hazardous waste generators, transporters, and storage, treatment, and disposal facility operators would be required to retain copies of the manifest for three years before discarding. In this option receivers of the hazardous waste as well as generators would be required to submit a copy of the manifest to the appropriate agency. Receivers of hazardous waste also would be required to return a copy of the manifest to the waste generator.

Option II would require generators to provide transporters with a manifest for each hazardous waste. Hazardous waste receivers would be required to return copies of the manifest to the generator. Generators, transporters, and receivers of hazardous wastes would retain copies of the manifest for three years. In addition, generators would be required to submit quarterly reports to the Agency describing the types, quantities, composition, and disposition of wastes generated during that period.

The Agency is specifically interested in obtaining comments on the two basic options presented. Specifically, comment is solicited on the following.

1. Sufficiency of each option to meet recordkeeping and reporting requirements.

2. Other manifest options which might satisfy the purpose and intent of the Act including forms and examples where appropriate.

3. Information needed on the manifest form particularly with regard to level of detail necessary to properly identify and described the waste.

4. Whether the same standards should be applied to generators of all wastes or whether different standards should be developed for different wastes.

With regard to the container requirements, the Agency believes that the U.S. Department of Transportation requirements (49 CFR 173) and container specifications (49 CFR 178 and 179) offer a substantial base for developing the necessary container and labeling standards. In addition, however, the Agency is considering requirements that hazardous waste containers also carry labels which indicate the chemical composition of the contents, the type(s) of hazard, hazard emergency procedures and, if the container is used to transport the waste, the manifest number.

The Agency is seeking information, comment and data relative to such requirements including specific labeling suggestions and the advantages and alternatives for various labeling requirements. Specific comments are desired on:

1. How to best use the DOT container, labeling, and placarding requirements.

2. Identification of need and specification for other types of containers which may be necessary for certain waste classes.

Section 3003—Standards Applicable to Transporters of Hazardous Waste

Section 3003 directs EPA to develop and implement standards applicable to hazardous waste transporters. These standards are to establish requirements with respect to: (1) Recordkeeping concerning the kinds, sources, and delivery points of the wastes; (2) transportation of hazardous wastes only if properly labeled; (3) compliance with the manifest system; and (4) transportation only to the designated waste management facility. Standards on the following subjects are also being considered: (5) safety in transport and handling; and (6) insurance requirements.

Current Federal authority for the regulation of surface transportation of hazardous materials is shared by the Department of Transportation (DOT), the Interstate Commerce Commission (ICC), and EPA. The Agency is considering adopting the DOT and ICC requirements with regard to marking, placarding, packaging, safety (motor carrier, tank vessel, barges, rail carriers), incident reporting and insurance coverage to provide a base for Section 3003 standards. To these would be added the specific standards to protect public health and the environment as required by the Act.

In carrying out its duties and responsibilities under the Act, EPA is soliciting comments specifically on the following topics:

(1) Applicability of standards to all hazardous waste transporters. Are there reasons to develop separate standards applicable to each mode of transportation (motor carriers, tank vessels, barges, rail, pipelines, air, etc.)?

(2) What kinds and length of storage of records?

(3) What special handling procedures, if any, may be necessary to assure the delivery of the manifest to the designated facility?

(4) Sufficiency of existing Federal regulations to protect public health and the environment during transportation of hazardous wastes. Should additional placards be developed to identify hazardous wastes? Is the classification of hazardous wastes, for example, as "flammable not otherwise specified" sufficient for environmental emergency response? Are special safety rules needed for hazardous wastes in addition to existing rules? Should the Federal Motor Carrier Safety Regulations be adopted for all motor carriers of hazardous wastes?

(5) What additional, if any, vehicle inspection or certification rules are needed for transport of hazardous wastes?

(6) Is there need for contingency spill cleanup plans in addition to those established under the Federal Water Pollution Control Act, for hazardous waste spills?

(7) Is there need to establish minimum insurance coverage requirements for hazardous waste transporters to cover the cost of spill cleanup and possible environmental damage?

Section 3004—Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Section 3004 requires the development of standards for performance applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities in order to protect human health and the environment. The standards formulated by the Agency will include requirements respecting the monitoring, operations, location, design, ownership, contingency plans, and training programs of hazardous waste management facilities.

Hazardous wastes exist in an almost infinite number of forms, combinations, and concentrations. Although many technologies have been developed to deal with these wastes, in most cases their application to a broad spectrum of wastes has not been demonstrated.

Comments are specifically requested on the following:

(1) Open burning, odors and other air pollution problems may occur at hazardous waste management facilities. How can air pollution best be controlled and monitored at these facilities? Are existing Federal regulations sufficient to protect public health and the environment?

(2) Experience shows that pollution of both ground and surface waters is common at land disposal sites. What existing regulatory controls may be adopted to protect ground and surface waters? What other standards may be effective in controlling water pollution? What parameters and limits can be supported?

(3) Hazardous waste management facilities are prone to accidents. Some, such as fires and spills, pose threats to the public health and environment. What form of regulation, if any, is likely to have impact on this problem? What techniques might be required to reduce the number or impact of these accidents?

(4) One of the major means of reducing public health and environmental damage potential from hazarodus waste management facilities is to locate them so as to take advantage of natural features such as climate, distance from water bodies, and soil types. Comments are solicited concerning regulatory actions which would control location of these facilities. Which geologic settings (i.e., wetlands, fault zones) should be restricted from accepting the location of hazardous waste facilities? What are the advantages and disadvantages of setting minimum distances to surface and groundwaters? What may be appropriate levels and why? Which location regulations should apply to treatment and storage facilities as well as land disposal operations?

(5) Some hazardous waste management facilities have been designed to overcome natural site deficiencies. Which techniques have been shown to be capable of overcoming limitations in natural sites? Are there site deficiencies for which engineering modifications are not sufficient? Are techniques to limit rainfall infiltration successful? Should such techniques be required? Is erosion control at land disposal sites a problem?

(6) The Act mandates that ownership and management standards be formulated. Such requirements can take many forms. The Agency is considering the

following requirements on which comments are solicited:

Effectiveness and content of contingency plans,

Use and content of employee training programs including formulation of an operator certification program,

Content of and funding options for closure and perpetual care plans,

Availability (including time limitations) of liability insurance for hazardous waste facilities,

Routine recordkeeping and reporting requirements for both environmental monitoring and waste handling (wastes received, methods used for treatment/storage/disposal) data,

Procedures for reporting non-routine occurrences (e.g., faulty manifests, spills, etc.).

(7) To what extent is the escape of significant levels of radiation from waste management facilities a problem? To what extent do noise levels at hazardous waste management facilities pose a significant problem? What noise and radiation levels are appropriate for hazardous waste facilities?

(8) In addition to location and design standards, pollution potential at hazardous waste management facilities is affected by operating techniques. What techniques for handling wastes have been effective which may be formulated into standards? For example, should time limits be imposed on exposed storage of drummed wastes to take into account corrosion? Should mandatory requirements be set relative to segregating hazardous wastes from each other and from wastes (to prevent fires, toxic emissions, etc.)?

Section 3005—Permits For Treatment, Storage or Disposal of Hazardous Waste

Section 3005 requires each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste to have a permit.

While the permit system has yet to be designed, it will probably include general procedures for:

Application (used for collection and review of information),

Interim status,

Preliminary review and tentative permit decisions,

Issuing and denying permits,

Monitoring, reporting for permitted sites,

Modifying, revoking permits.

The Agency desires information, analysis, and opinions concerning permit system development for facilities which treat, store or dispose of hazardous wastes. Comments are specifically requested on the following:

(1) Who should be required to secure a permit? What are the economic and environmental factors to be considered in making this judgment? Should small businesses identified as storers, treaters, or disposers of hazardous wastes be required to obtain a permit? Should exemptions be granted based on quantities of hazardous waste? Would enforcement be practical?

(2) What type of information should be required for the reviewing official to properly evaluate a permit application? Should a detailed engineering plan be submitted with the application to properly evaluate the facility? What are the technical and economic considerations in selecting this information?

(3) What are the specific costs that face the applicant in the permit procedure process if a detailed system is developed? A simple program is developed? What are typical costs for preparing an existing (i.e., NPDES, etc.) environmental permit application?

(4) Should the permitting procedure that is to be developed under RCRA consider various local conditions or be more definite, specific, and universally applicable?

(5) Should a permit for a hazardous waste management facility be issued for a fixed number of years, for the life of the facility, or some other period?

(6) Should the substantive and procedural aspects of a permit program vary for:

(*1*) Different types of operations?

(*2*) Different types of wastes?

(*3*) Different volumes of wastes?

(7) What type of permit information should be held confidential by the Agency and for what reasons, if any? What administrative procedures can be used to protect legitimate confidential information that would be necessary to properly evaluate a permit application?

(8) Will public opposition to the siting of facilities that would treat, store or dispose of hazardous wastes in an adequate manner be a major problem? What methods may be available to EPA and the States (either through the regulatory process or otherwise) to ensure that sufficient capacity in terms of permitted hazardous waste management facilities will be available for all hazardous wastes?

(9) Are there any aspects of existing operational permit programs which should be considered? How should RCRA permit system be integrated with other permit systems?

(10) What are the various alternatives to be considered in granting an interim status to those facilities which began operation after the legislation was enacted (October 21, 1976) but before regulations are promulgated? Should nothing be done? Should specific provisions be considered for these facilities?

(11) What would constitute a modification to a facility (i.e., expansion, change in waste streams, change in handling procedures, etc.) that would require the facility to apply for a permit modification?

Section 3006—Authorized State Hazardous Waste Programs

Section 3006 requires EPA to "* * * promulgate guidelines to assist States in the development of State hazardous waste programs." The Agency intends to encourage States to request and receive authorization under Section 3006 of the RCRA to administer and enforce the requirements of the Act. Consequently, the guidelines are intended to identify those elements in the State program which must be developed or implemented before the Administrator can grant the above authorization. The following issues have been identified: (1) The Act directs the Administrator to approve State applications for authorization under Section 3006 unless (a) such State program is not equivalent to the Federal program, (b) such program is not consistent with the Federal or State programs applicable in other States, or (c) such program does not provide adequate enforcement of compliance with the requirements of the Act's hazardous waste provisions. Comments are solicited on the nature of criteria which can be applied to determine whether or not a State program is "equivalent," "consistent with" the Federal program or the programs in other States, and whether "adequate enforcement of compliance" is provided. Views as to whether presence of a policy of non-importation of waste from other States should be considered inconsistent are of special interest. To what extent should the criteria incorporate substantive provisions of the standards (Section 3001-3004) and the procedural provisions of the 3005 regulations?

(2) Section 3006(b) provides for "interim authorization" of State programs, and directs the Administrator to grant such authorization to States which submit evidence that the proposed program is "substantially equivalent" to the Federal program. Comments are requested on the criteria which should be applied to determine whether or not a State program is "substantially equivalent" to the Federal program? How should the criteria for "substantially equivalent" differ from those for "equivalent"?

(3) Section 3006(c) requires that States have "in existence a hazardous waste program pursuant to State law" by July 21, 1978, in order to request interim authorization. Comments as to what criteria should be used to determine whether a State has a program "in existence" are solicited.

(4) According to the Act, the Environmental Protection Agency is given until April 21, 1978, to develop most of the hazardous waste regulations. Yet section 3006(b) does not include any minimum waiting period before States may apply for full program authorization. Suggestions are requested as to when the Federal program may be sufficiently developed to allow the Administrator to certify that a State program has met the criteria of section 3006(b) for authorization.

(5) Once authorization has been granted, how should the agency monitor State activities to assure the adequate administration and enforcement of the provisions of Subtitle C. Comment is also solicited on the criteria which might be used to withdraw authorization.

Dated: April 19, 1977.

Douglas M. Costle,
Administrator.

[FR Doc.77-12320 Filed 4-29-77;8:45 am]

federal register

MONDAY, MAY 2, 1977

PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

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STATE ADULT EDUCATION PROGRAMS

Emergency Adult Education Program for Indochina Refugees

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 166]

STATE ADULT EDUCATION PROGRAMS

Emergency Adult Education Program for Indochina Refugees

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document governs the award of grants to State and local educational agencies for the purpose of operating special adult education programs for adult Indochina refugees in Fiscal Year 1977 in order to facilitate their integration into American society and to contribute to their employability.

COMMENT DATE: Comments must be received on or before June 1, 1977.

ADDRESSES: Comments should be addressed to Paul V. Delker, U.S. Office of Education, 7th and D Streets SW., Room 5056, Washington, D.C. 20202. All relevant material received on or before the 30th day after publication of this notice will be considered. Comments received in response to this notice will be available for public inspection at the above office, Mondays through Fridays, between 8:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Paul V. Delker (202-245-2278).

SUPPLEMENTARY INFORMATION: All comments, suggestions, or recommendations to be considered must be received not later than June 1, 1977.

In accordance with section 431(g) of the General Education Provisions Act (20 U.S.C. 1232(g), S. Rept. No. 94-882 (94th Cong., 2d Sess.) at 108), the Commissioner is contrained to issue regulations to implement the program.

1. *Summary of emergency adult education program for adult Indochina refugees.* This subpart governs a program of grants to State and local educational agencies in Fiscal Year 1977 to operate the following types of one-year adult education programs for adult Indochina refugees:

(a) Programs of instruction in basic reading, mathematics, promotion of literacy and development and enhancement of necessary skills;

(b) Special adult education projects operating in conjunction with Federal and non-Federal occupational programs to develop occupational and related skills;

(c) Educational support services, including tutoring in geographically isolated areas, counseling, job placement, and follow-up;

(d) Any combination of programs and services described in (a), (b), and (c).

The goals of the special adult Indochina refugee program to be funded under this subpart are to:

(a) Facilitate the integration of adult Indochina refugees into American society; and

(b) Contribute to the employability of adult Indochina refugees through development of basic education and occupational skills.

Only State and local educational agencies are eligible for grants available under this subpart. The Congress has provided for direct application by State educational agencies and local educational agencies to assure rapid implementation of the special programs uniquely designed for needs of adult Indochina refugees (S. Rept. No. 94-432, 94th Cong., 2d Sess. at 7). A State educational agency and one or more local educational agencies or two or more local educational agencies are eligible to file a joint application in which each joint applicant is directly responsble for carrying out a portion of the program. The Commissioner will not fund an application from a local educational agency unless the appropriate State educational agency has provided the assurance of non-duplication required in § 166.79(a). Applications are evaluated using criteria described in § 166.80. No State or local cost sharing is required.

Eligible participants in programs provided under this subpart are adult Indochina refugees, as defined in § 166.76, who posses a Form I-94 indicating a person has been paroled into the United States or has been granted voluntary departure status.

2. *Public comment to the notice of intent to issue regulations.* As a first step in the regulation process, the Commissioner published a Notice of Intent to Issue Regulations in the FEDERAL REGISTER on November 23, 1976 (41 FR 51652-51654). The public was invited to offer comment, advice, and guidance to the Office of Education in response to identified or other issues relating to the development of regulations for this program. The suggestions received from the public have been given consideration in the preparation of this proposed rule.

The public's comments and the Commissioner's responses to these comments are summarized as follows:

Issue (a)—Support services. What types of educational support services are required to meet the needs of adult Indochina refugees?

Comments. The comments mentioned guidance and counseling, day care services, and transportation as the support services needed to serve the educational needs of adult Indochina refugees.

Response. This regulation provides that educational support services may be included as a component of a program of adult education instruction and a program of combined adult educational-occupational skills training instruction, or as an independent program where need for these services is demonstrated. Support services may include guidance and counseling, such as job development, placement, and follow-up, and tutoring when the program is to be operated in a geographically isolated area. The Commissioner has determined that day care services shall not be considered support services for the purposes of this subpart. The legislation and legislative history do not indicate that funding was intended for day care services and the Commissioner concludes that the limited resources which may be available for the programs will be more effectively spent on more educationally related support services.

Transportation costs may be allowable if need is demonstrated.

Issue (b).—Pre-service and in-service Training. What provisions for pre-service and in-service training of teachers, counselors, and paraprofessionals are needed to meet the special educational needs of adult Indochina refugees?

Comments. The responses expressed the view that there is a need for additional training of teachers, counselors, and paraprofessionals in the culture and background of Indochinese. One of the comments stated that a local educational agency should be able to contract directly with outside trainers and consultants to provide suitable staff training in aspects of Indochinese culture.

Response § 166.71(b)—Program Purpose. As indicated in this section and in paragraphs one and two of the preamble, the purpose of the program authorized by the Act is to provide emergency adult education programs to assist the adult Indochina refugees in developing basic skills and to become productive members of the society. In view of these purposes, the Commissioner, in § 166.81(f) will allow pre-service or in-service training provided it can be demonstrated that the required competence is not otherwise available.

Issue (c).—Duplication of services. What criteria should be used to determine whether a State educational agency provides reasonable assurance that a grant to a particular local educational agency would not result in duplication of services already being provided?

Comments. It was suggested in the comments that a State educational agency provide a listing of on-going activities in the State and a description of coordination of activities.

Response § 166.79—State review of applications. The Commissioner relies on the assurance of the State educational agency as to non-duplication and does not impose any requirements as to the adequacy or basis of assurance.

Issue (d).—Cash assistance refugees. Should priority be given in the evaluation of grant applications to the number of cash assistance refugees in the area of the local educational agency or State educational agency applicant?

Comments. Comments from the public expressed the opinion that it is too early to evaluate HEW projects designed to remove the refugees from the cash assistance rolls, and for this reason priority should be given according to the total number of refugees needing services within a given area. One commentator indicated that additional funding is needed to continue existing programs and that the aim of the programs funded under this subpart should be to provide language skills to all the refugees, and enable them to adjust to American society.

Response § 166.80(b). — *Evaluation.* The regulation provides that a major consideration in the evaluation of a proposed project will be the extent of the need for education programs designed especially for adult Indochina refugees. The regulation allows for flexibility in the types of needs to be shown and the evidence of a given need. Thus, the number of refugees on cash assistance may be used by a local educational agency or State educational agency to indicate need for services, but is not the exclusive criterion of "need" for a program. The Commissioner is also concerned about the needs of refugees living in geographically isolated areas who have not been served by existing programs, as well as needs of many refugees who came to this country with occupational skills but who need adult education classes (combined adult education-occupational curriculum) to adapt to their new work environment. See § 166.80 (c) and (i).

Issue (e).—Priorities. Should priority be given to any of the three types of grants under this Act (programs of instruction and administration, special projects to develop occupational and related skills, and educational support services) or which combines any of the above-mentioned types of programs which may be funded?

Comments. The comments indicated that priorities should be given to:

(1) Educational support services to accompany existing programs of instruction (examples of support services needed were transportation, tutoring, guidance and counseling); and

(2) Adult education classes with emphasis on technical vocabulary integrated into vocational and occupational instructional programs.

Response. An application which provides support services (described in the comment on issue (a)) as a component of a program of adult education instruction receives points in the evaluation of criteria.

With regard to the suggested combined adult educational-occupational program, it is evident that many adult Indochina refugees have received basic skills instruction but could benefit from adult education instruction as a component of an occupational training program which teaches new occupational skills and/or the transferability of existing skills to the new work environment. For example, adult Indochina refugees who were auto mechanics in Cambodia might attend an adult education course through which they could acquire literacy and adaptive skills to greatly enhance their chances of securing employment as mechanics.

Adult education programs related to occupational skills could be an integral component of existing Federal or non-Federal occupational training programs, such as the Comprehensive Employment and Training Act of 1973, and the Vocational Education Act of 1963, as amended. However, where it is documented in the application that occupational education and training for refugees is unavailable or insufficient, a program funded under this subpart may provide a combined occupational-adult education program to enable refugees to acquire necessary job and language skills to obtain employment. An application which proposes a project to provide an adult education program which operates in conjunction with an occupational training program, or where necessary as a combined occupational-adult education program, will receive points in the review of application criteria.

(29 U.S.C. 801 and 20 U.S.C. 1241.)

Issue (f).—Provision for expertise. Should provisions be included in the grant application to assure that the expertise of private and other public organizations already employed in educating Indochina adults is utilized by State and local educational agency recipients of grants? If so, how can the Office of Education ensure that utilization by State educational agencies and local educational agencies of these private and other public organizations in providing services to the refugees is carried out on a cost-effective basis?

Comments. Comments from the public expressed the view that local educational agencies and State educational agencies should have flexibility to enter into contracts or coordinate with other voluntary resettlement agencies or associations which have experience with refugees. One comment also stressed the need for continuation of already established resource dissemination and technical assistance centers to serve education needs of adult Indochina refugees.

Response 45 CFR 100a.30; § 166.80 (g)—Service contracts. An applicant may enter into service contracts with public and private agencies and organizations to obtain services from resource, dissemination, and technical assistance centers to provide educational services to adult Indochina refugees, subject to the Code of Federal Regulations. Further, applications which involve cooperative arrangements with, and obtain support services from, voluntary agencies, business, and industry will receive points in the evaluation criteria as shown in this document.

3. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of the statutory or other legal authority for each section of the regulation has been placed in parentheses on the line following the text of the section.

4. *Other applicable regulations.* The proposed regulation does not contain provisions relating to general fiscal and administrative matters. Requirements of this nature are covered by the General Education Provisions Regulations (45 CFR Parts 100 and 100a) as cross-referenced in the proposed regulation.

5. *Notice to prospective applicants.* The notice of closing date for receipt of applications under this subpart will be published in the FEDERAL REGISTER at a later date.

6. *Other information.* The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.579, Emergency Adult Education Program for Indochina Refugees.)

Dated: March 3, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: April 27, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

PART 166—STATE ADULT EDUCATION PROGRAMS

Subpart H—Emergency Adult Education Program for Indochina Refugees

Sec.
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AUTHORITY: Pub. L. 94-405, 20 U.S.C. 1211b.

§ 166.71 Scope and purpose.

(a) *Scope.* The regulations in this subpart govern the Emergency Adult Education Program for Indochina Refugees for which Federal funds are authorized by section 315 of the Adult Education Act (20 U.S.C. 1211b), as added by section 301 of Pub. L. 94-405, the Indochina Refugee Children Assistance Act of 1976, 20 U.S.C. 1211b. These funds are authorized for the period beginning July 1, 1976, and ending September 30, 1977.

(b) *Purpose.* The purpose of this program is to provide grants to State and local educational agencies to operate special adult education programs for adult Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975, as amended.

(20 U.S.C. 1211b(a); 22 U.S.C. 2601 note.)

§ 166.72 Applicability of general education provisions regulations.

(a) Subchapter A of this Chapter, entitled "General Provisions for Office of Education Programs" and commonly referred to as the General Education Provisions Regulations, pertains to fiscal, administrative, property management and other matters. Parts 100 and 100a of the General Education Provisions Regulations (45 CFR Parts 100 and 100a) apply to assistance under this subpart except for the following provisions which do not apply:

(1) § 100a.16 (relating to project description);

(2) § 100a.19(b) (relating to cooperative management); and

(3) § 100a.26(b) (relating to criteria for review of applications).

(b) The General Education Provisions Regulations are referred to in this subpart as "GEPR".

(20 U.S.C. 1211b; 45 CFR Parts 100, 100a.)

§ 166.73 Definitions.

(a) The terms "adult education", "local educational agency", "State", and "State educational agency", as used in this subpart, are defined in section 303 of the Adult Education Act (20 U.S.C. 1202).

(b) "Adult" means any individual who has attained the age of sixteen.

(c) The term "Indochina Refugee", as defined in the Indochina Migration and Refugee Assistance Act of 1975, as amended by Pub. L. 94-313 and used in this subpart, means an alien who:

(1) Because of persecution or fear of persecution on account of race, religion, or political opinion, fled from Cambodia, Vietnam, or Laos;

(2) Cannot return there because of fear of persecution on account of race, religion, or political opinion; and

(3) Is in urgent need of assistance for the essentials of life.

(20 U.S.C. 1201, 1211b; 22 U.S.C. 2601 note.)

§ 166.74 Eligible applicants.

(a) *General.* Only the following are eligible to apply for grants under this subpart:

(1) State educational agencies; and

(2) Local educational agencies.

(b) *Joint applications.* Two or more local educational agencies or a State educational agency and one or more local educational agencies may submit a joint application under § 100a.19(a) of the GEPR to provide programs of adult education to meet the needs of adult Indochina refugees.

(20 U.S.C. 1211b(a); 20 U.S.C. 1221c(b)(1), 1232c(b)(1).)

§ 166.75 Grantee responsibilities.

(a) A State or local educational agency which applies for a grant under this subpart must establish that it is prepared to operate the programs of adult education for adult Indochina refugees for which it requests assistance.

(b) A recipient of a grant under this subpart may not award a sub-grant to another entity or person.

(c) A recipient of a grant under this subpart may, in accordance with § 100a.30 of the GEPR, enter into a service contract to carry out a portion of the grant activities, subject to the provisions of § 100a.30(b) of the GEPR (prohibiting transfer of responsibility) and subpart I of Part 100a of the GEPR (relating to procurement by grantees).

(d) No State or local cost sharing is required.

(Implements 20 U.S.C. 1211b.)

§ 166.76 Eligible participants.

Only adult Indochina refugees who possess a form (I.N.S. Form I-94) issued by the United States Immigration and Naturalization Service, indicating that they have been paroled into the United States or have been granted voluntary departure status may participate in a program assisted under this subpart.

(Implements 20 U.S.C. 1211b; 22 U.S.C. 2601 note.)

§ 166.77 Eligible activities.

A grantee may use funds under this subpart only for:

(a) Programs of instruction (including administrative costs of planning and operating these programs) for adult Indochina refugees in basic reading, mathematics, the promotion of literacy, and the development and enhancement of necessary skills (such as consumer, social, survival, occupational, and communication skills) for the purpose of enabling the adult refugees to become employable and productive members of the American society.

(b)(1) Adult education programs designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for adult Indochina refugees, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 (20 U.S.C. 801) or under the Vocational Education Act of 1963, as amended (20 U.S.C. 1241).

(2) Where occupational skills programs are otherwise unavailable or insufficient, combined occupational-adult education programs to provide adult Indochina refugees with skills necessary to their obtaining employment;

(c) Programs providing educational support services which meet the needs of adult refugees, including but not limited to (1) tutoring (in the case of geographically isolated refugees) and (2) guidance and counseling with regard to educational, career, and employment opportunities (such as job placement and job follow-up services); or

(d) Any combination of programs described in paragraphs (a), (b), and (c) of this section.

(Implements 20 U.S.C. 2111b(a).)

§ 166.78 Application requirements.

(a) *General.* To receive consideration for assistance under this subpart, an applicant (as described in § 166.74) must submit to the Commissioner an application which meets the requirements of paragraphs (b) through (h) of this section. The Commissioner does not consider applications proposing a program of more than 12 months in duration.

(b) *Nature and purpose of program.* An application under this section must contain information sufficient to satisfy the Commissioner that the proposed program will serve, through activities described in § 166.77, the special adult education needs of adult Indochina refugees who are in or near the area served by the applicant.

(c) *Need for program; assurance of participation.* An application under this section must:

(1) Identify the needs of the target population to be addressed by the proposed program, and supply documentation of those needs; and

(2) Provide reasonable assurance that the adult Indochina refugees to whom the program is addressed will participate in the program if it is available.

(d) *Program description.* An application under this section must:

(1) Describe the objectives and design of the program in relation to the needs set forth under paragraph (c) of this section;

(2) In the case of a joint application, specify the parts of the program to be carried out by each of the applicants.

(e) *Budget.* An application under this section must:

(1) Set forth a detailed budget by program component showing any non-Federal sources of funds; and

(2) Include separate budgets in the case of joint applications corresponding to programs, services, and activities of each of the applicants.

(f) *Applicant qualifications.* An application under this section must contain sufficient information to enable the Commissioner to determine qualifications of the applicant for receiving an award. The application must include information about key professional personnel regarding such matters as their education, training, and experience in areas of adult and/or occupational education and qualifications for the proposed position, together with a description of the applicant's available facilities and other resources for the program.

(g) *Coordination.* An application under this section must describe plans for coordination of services and resources under the proposed program with Federal or non-Federal programs such as those carried out under the Comprehensive Employment and Training Act of 1973 or the Vocational Education Act of 1963, as amended. The application must also describe plans for such coordination with programs carried out by voluntary agencies, sponsor groups, public assistance agencies, social/vocational rehabilitation services, business and industry, social organizations, health services, legal aid, and with other State and local educational activities.

(h) *Additional information.* An application under this section should include other information which is responsive to the applicable criteria set forth in § 166.80 in sufficient detail to permit review of the application in accordance with these criteria. Information which relates to a particular criterion should identify that criterion.

(Implements 20 U.S.C. 1211b(c).)

§ 166.79 State review of applications.

(a) The Commissioner may not approve an application under this subpart from a local educational agency unless the State educational agency (for the State in which that local educational agency is located) assures the Commissioner that the program proposed in the application will not duplicate existing and available (Federal and non-Federal) adult education programs which meet the needs of adult Indochina refugees.

(b) To facilitate review by the State educational agency, a local educational agency applying for assistance under this subpart shall:

(1) Send a copy of its application to the State educational agency at the same time that it sends the application to the Commissioner, and

(2) Notify the Commissioner that it has sent the application to the State educational agency by furnishing the Commissioner a copy of its transmittal letter.

(c) The State educational agency has 30 days from the receipt of the application from the local educational agency to notify the Commissioner in writing whether the application does nor does not duplicate existing and available programs. If the Commissioner does not, within that period, receive this notification, the Commissioner need not give further consideration to the application.

(Implements 20 U.S.C. 1211b(b).)

§ 166.80 Criteria for evaluation of applications.

The Commissioner evaluates applications which meet the requirements of this subpart only according to the following criteria. Each criterion is weighted and includes the maximum score that can be given for that criterion with the total number of points equaling 100. Applications will be judged on the basis of the extent to which each criterion is met. An application which receives a score of less than 30 points will not be approved.

(a) *Need.* (Maximum 10 points.) The application:

(1) Describes the need for the proposed adult Indochina educational program;

(2) Provides specific evidence of the need; and

(3) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(b) *Objectives.* (Maximum 10 points.) The objectives:

(1) Are significant and meet clearly identified needs of adult Indochina refugees;

(2) Clearly describe the proposed project outcomes; and

(3) Are capable of being measured and attained.

(c) *Program design.* (Maximum 15 points.) The application clearly describes how:

(1) The overall design relates to the objectives; and

(2) Each segment of the design relates to one or more objectives.

(d) *Applicant's staff competencies and experience.* (Maximum 25 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director and key professional staff and the qualifications and, to the extent feasible, the names of consultants and advisory groups;

(2) Time commitments planned for the project director, staff, advisory groups, and any consultants;

(3) Past and successful experiences of the proposed project director and key staff members in similar or related projects; and

(4) Staff competencies that are essential to understand the cultures of the adult Indochina refugees and to assist them in becoming self-sufficient members of the American society.

(e) *Evaluation plan.* (Maximum 5 points.) The application includes valid and reliable procedures for assessing and documenting the progress of participants.

(f) *Cooperative arrangements.* (Maximum 15 points.) The application clearly describes arrangements and support services to be provided by existing agencies in order to maximize the impact of the proposed program. The types of agencies with which cooperative arrangements are encouraged include but are not limited to voluntary agencies, sponsor groups, public assistance agencies, social/vocational rehabilitation services, business and industry, social organizations, health services, legal aid, and other existing State and local education, employment, and training programs.

(g) *Budget and cost effectiveness.* (Maximum 5 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and is cost effective.

(h) *Facilities and equipment.* (Maximum 5 points.) The application describes adequate facilities, equipment, and materials for the operation of the proposed program.

(i) *Reaching the geographically isolated.* (Maximum 5 points.) The application provides for meeting the educational needs of previously unserved adult Indochina refugees living in isolated geographic areas.

(j) *Support services.* (Maximum 5 points). The application provides for support services for adult Indochina refugees, including but not limited to guidance and counseling.

(Implements 20 U.S.C. 1211b.)

§ 166.81 Allowable costs.

(a) Allowable costs under grants awarded under this subpart are determined in accordance with the applicable cost principles subject to the limitations in this section. See § 100a.81 of the GEPR.

(b) Stipends and/or dependency allowances are not allowable.

(c) The cost of child care is not allowable. (Grantees are encouraged to utilize the services of volunteers or other community agencies for child care services.)

(d) Transportation costs are allowable only where need is demonstrated.

(e) The development of curriculum materials is not a priority for this program, and the cost of such development is allowable only if it can be demonstrated that necessary materials do not exist or cannot be obtained from existing sources.

(f) The cost of limited pre-service or in-service training of personnel is allowable if it can be demonstrated that the required competence is not otherwise available on a cost-effective basis.

(Implements 20 U.S.C. 1211b.)

§ 166.82 Records and reports.

(a) Each grantee shall report to the Commissioner on all programs and services provided adult Indochina refugees from Federal funds granted under this subject.

(b) A grantee shall submit these reports as part of the financial and narrative reporting requirements set forth in subparts P and Q of Part 100a of the GEPR.

(c) In addition to reporting the information required under §100a.432 of the GEPR, a grantee shall include the following in the performance report:

(1) Total number of adult Indochina refugees that participated in adult education programs which were funded from a Federal grant awarded under this subpart by:

(i) Type of program (basic skills program of instruction, adult education program operating in conjunction with occupational skills program, and support services program); and

(ii) Nature of instruction (English as a second language, bilingual education, adult education, and occupational training);

(2) Total number of participants under this subpart who:

(i) Gained employment;

(ii) Obtained a better job; and

(iii) Were removed from public assistance; and

(3) A list of those agencies and resources that participated in meeting the objectives of this grant and the extent of their participation.

(Implements 20 U.S.C. 1211b.)

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PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

OFFICE OF MANAGEMENT AND BUDGET

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ZERO-BASE BUDGETING

OFFICE OF MANAGEMENT AND BUDGET

[Bulletin No. 77-9]

ZERO-BASE BUDGETING

APRIL 19, 1977.

To the heads of executive departments and establishments:

1. *Purpose*. The President, in a memorandum of February 14, 1977 (Attachment), asked each agency head to develop a zero-base budgeting system to be used in the preparation of the 1979 Budget. In accordance with the President's direction, these instructions provide guidance on the use of zero-base budgeting techniques for the preparation and justification of 1979 budget requests within each agency. Separate instructions will be issued in OMB Circular No. A-11 to advise agencies of budget materials to be submitted to OMB. The instructions in this Bulletin lay the foundation for agency budget submissions in September in accordance with Circular No. A-11.

2. *Coverage*. These instructions apply to all agencies in the executive branch whose budgets are subject to Presidential review (see OMB Circular No. A-11, section 11.1). These concepts and guidelines are a framework within which each agency should develop necessary procedures to meet its individual requirements. Agencies should insure that the fundamental characteristics of zero-base budgeting are retained. Agencies excluded from coverage of this bulletin are encouraged to develop zero-base budgeting procedures.

3. *Definition of terms*. a. *Decision unit*. The program or organizational entity for which budgets are prepared and for which a manager makes significant decisions on the amount of spending and the scope or quality of work to be performed.

b. *Decision package*. A brief justification document that includes the information necessary for managers to make judgments on program or activity levels and resource requirements. A series of decision packages (a decision package set) is prepared for each decision unit and cumulatively represents the total budget request for that unit.

c. *Consolidated decision packages*. Packages prepared at higher management levels that summarize and supplement information contained in decision packages received from lower level units. Consolidated packages may reflect different priorities, including the addition of new programs or the abolition of existing ones.

d. *Ranking*. The process by which managers array program or activity levels (as shown in decision packages(in decreasing order of priority. This ranking process identifies the relative priority assigned to each decision package increment contained in the manager's budget request based on the benefits to be gained at and the consequences of various spending levels.

e. *Minimum level*. The program, activity, or funding level below which it is not feasible to continue the program, activity, or entity because no constructive contribution can be made toward fulfilling its objective. The minimum level:

May not be a fully acceptable level from the program manager's perspective; and

May not completely achieve the desired objectives of the decision unit.

f. *Current level*. The level that would be reflected in the budget if fiscal year 1978 activities were carried on at 1978 service or other output levels without major policy changes. A concept, not unlike current services, that nevertheless permits internal realignments of activities within existing statutory authorization. Estimates of personnel compensation and other objects of expenditure will be made in accordance with OMB Circular No. A-11.

4. *The zero-base budgeting concept*. Zero-base budgeting is a management process that provides for systematic consideration of all programs and activities in conjunction with the formulation of budget requests and program planning.

The principal objectives of zero-base budgeting are to:

Involve managers at all levels in the budget process;

Justify the resource requirements for existing activities as well as for new activities;

Focus the justification on the evaluation of discrete programs or activities of each decision unit;

Establish, for all managerial levels in an agency, objectives against which accomplishments can be identified and measured;

Assess alternative methods of accomplishing objectives:

Analyze the probable effects of different budget amounts or performance levels on the achievement of objectives; and

Provide a credible rationale for reallocating resources, especially from old activities to new activities.

To accomplish these objectives zero-base budgeting requires these decision-makers to:

Use "decision packages" as the major tool for budgetary review, analysis, and decisionmaking; and

Rank program or activity levels in order of priority.

5. *Benefits anticipated in the Federal Government*. This new system can provide significant benefits at all levels throughout the Federal Government. These benefits include:

Focusing the budget process on a comprensive analysis of objectives, and the development of plans to accomplish those objectives;

Providing better coordination of program and activity planning, evaluation, and budgeting;

Expanding lower level management participation in program and activity planning, evaluation, and budgeting;

Causing managers at all levels to evaluate in detail the cost effectiveness of their operations and specific activities—both new and sold—all of which are clearly identified;

Requiring that alternative ways to meet objectives are identified;

Identifying trade-offs between and within programs; and

Providing managers at all levels with better information on the relative priority associated with budget requests and decisions.

Many agency management processes are aimed at providing some if not all of these same benefits. In many instances, however, such processes do not operate agencywide and the information relevant to the processes is not gathered, analyzed and reviewed in a systematic manner for all programs and activities. The value of zero-base budgeting is that it provides a process requiring systematic evaluation of the total budget request and all program objectives.

6. *The zero-base budgeting process*. Agencies should develop their internal zero-base budgeting procedures within the following framework.

a. *Identification of objectives*. An important early step in zero-base budgeting is the identification of objectives for all managers preparing and reviewing decision packages.

Top level agency management should be involved in setting objectives for lower level agency managers to:

(1) Help ensure that appropriate guidance is furnished to managers throughout the agency;

(2) Aid managers preparing decision packages in defining, explaining, and justifying their work to be performed and the associated resources; and

(3) Aid top and intermediate level managers in understanding and evaluating the budget requests.

Program and organization objectives should be explicit statements of intended output, clearly related to the basic need for which the program or organization exists. The task of identifying objectives requires the participation by managers at all levels to determine the ultimate realistic outputs or accomplishments expected from a program or organization (major objectives) and the services or products to be provided for a given level of funding during the budget year (short-term objectives).

However, lack of precise identification and quantification of such objectives does not preclude the development and implementation of zero-base budgeting procedures.

As objectives are identified, managers should simultaneously determine the key indicators by which performance and results are to be measured. Agencies should specify measures of effectiveness, efficiency, and workload for each decision unit. These measures can often be obtained from existing evaluation and workload measurement systems. If such systems do not exist, or if data are not readily available, desirable performance indicators should not be rejected because of apparent difficulties in measurement. Indirect or proxy indicators should be considered initially, while evaluation and workload systems are developed to provide the necessary data for subsequent budget cycles.

b. *Identification of decision units.* Another of the first steps in zero-base budgeting is the identification of the entities in the program or organization structure whose managers will prepare the initial decision packages. In all instances, the identification of the decision units should be determined by the information needs of higher level management. Agencies should ensure that the basic decision units selected are not so low in the structure as to result in excessive paperwork and review. On the other hand, the units selected should not be so high as to mask important considerations and prevent meaningful review of the work being performed. In general, the decision unit should be at an organizational or program level at which the manager makes major decisions on the amount of spending and the scope, direction, or quality of work to be performed. A decision unit normally should be included within a single account, be classified in only one budget subfunction, and to the extent possible, reflect existing program and organizational structures that have accounting support.

c. *Preparation of decision packages.* The decision unit manager performs two types of analyses based on the program and budget guidance received from higher level management. First, the manager examines alternative ways of accomplishing the major objectives. Such alternatives may require legislation and may have been identified and developed as a result of a major reexamination of the program or activity. In other instances the alternatives identified may not be fully developed, but will serve as a basis for reexamining the program at a later date. In still other instances, the alternatives identified may be the first steps toward more significant changes that will take longer than one year to accomplish. Normally, the best alternative is then selected and used as the basis for the second type of analysis—the identification of different levels of funding, activity, or performance. The purpose of identifying these different levels is to provide information on: (1) where reductions from the total request may be made, (2) the increased benefits that can be achieved through additional or alternative spending plans, and (3) the effect of such additions and reductions. Again, legislation may be required to put into effect some level of funding or performance.

However, nothing in this process should inhibit or prohibit any decisionmaker from submitting, requesting, or reviewng any information needed for analyses and decisionmaking. For example, separate decision package sets may be prepared to examine the impact of different alternatives. Also, packages reflecting increased performance or funding levels may introduce alternative methods of accomplishment that were not feasible at a lower level.

The guidance received from higher level management may determine the specific service, performance, output, or funding levels and the objectives to be discussed. This helps to insure that information provided in the decision package is broken down and arrayed in a manner conducive to higher level review of issues concerning the decision unit and also covering more than one decision unit. However, in all instances the decision package set should include:

(1) A minimum level. In all instances, the minimum level should be below the current level (unless it is clearly not feasible to operate below the current level); and

(2) A current level (unless the total requested for the decision unit is below the current level).

The decision package set may also include, when appropriate:

(1) A level or levels between the minimum and current levels; and

(2) Any additional increments desired above the current level.

Proposed changes (supplementals, amendments, rescissions) in current year amounts should be shown in packages separate from the packages described above. However, the above packages should include any budget year effect of current year changes. New programs or activities (e.g., those resulting from new legislative authority or a new major objective) will be proposed in a separate decision package set. Proposals for abolition of current programs or activities normally will not be reflected in a decision package set. However, such proposals should be highlighted, as appropriate, in another part of the agency justification.

The decision unit manager prepares a decision package set that includes decision packages reflecting incremental levels of funding and performance, so the cumulative amount of all packages represents the total potential budget request of the decision unit. Each package shows the effect of that funding and performance level on meeting the assigned objectives. The decision packages serve as the primary tool for budgetary review, analysis, and decisionmaking, although additional material may also be made available or requested for review.

Generally, a series of packages should be prepared for all programs and activities where, through legislative or administrative means, there is discretion as to the amount of funds to be spent or the appropriate method or level of activity. This does not mean that where a spending level is mandatory under existing substantive law, only one level will be identified. There are many instances in which the decision on whether to propose legislative changes is made during the preparation of the budget. There are also instances in which changes in regulations or program administration can affect the amount of resources needed to carry out a mandatory program. In these instances, packages should be prepared that analyze the effects of different funding or performance levels or alternative methods of accomplishing the objectives. In any instance where there is clearly no discretion in the amounts of funds to be spent or the appropriate method or level of activity, at least one decision package should be prepared that summarizes the analysis and decisionmaking that resulted in that request. That decision package should support the conclusion that only one funding or activity level can be considered during the budget process.

d. *Ranking of decision packages.* Completed decision packages should be ranked initially by the decision unit manager. At higher management levels, the rankings of each subordinate manager are reviewed and formed into a consolidated ranking. This consolidation process is illustrated in Exhibit 1. The ranking shows the relative priority that discrete increments of services or other outputs have in relation to other increments of services or other outputs. The process is explicitly designed to allow higher level managers the opportunity to bring their broader perspectives to bear on program priorities by allowing them to rank the decision packages and make program trade-offs.

Agencies may use whatever review and ranking techniques appropriate to their needs. However, the minimum level for a decision unit is always ranked higher than any increment for the same unit, since it represents the level below which the activities can no longer be conducted effectively. However, the minimum level package for a given decision unit need not be ranked higher than an incremental level of some other decision unit. A minimum level for a decision unit may be ranked so low in comparison to incremental levels of other decision units that the funding level for the agency may exclude that minimum level package. This would signify the loss of funding for that decision unit.

Decision packages or decision package sets may be prepared to examine the effect of alternative ways to meet an objective (see Section 6.c.). In these instances, only those decision packages that are part of the unit's request should be ranked. The other decision packages should accompany the submission, however, so higher review levels may examine the alternatives and have an opportunity to replace the requested packages with those representing an alternative thus far not recommended.

e. *Higher level review.* In all instances, the use of decision packages and priority rankings are the major tools for analysis, review, and decisionmaking. At each higher management level:

Decision packages may be revised, deleted, or added; and

Rankings submitted by subordinate managers may be revised.

(1) *Consolidation of decision packages.* In some small agencies, it may be desirable for each higher management level to review every decision package prepared by each decision unit. In other instances, however, higher level management's decisionmaking needs may better be met by recasting all or some of the initial decision packages into a lesser number of consolidated decision packages. The consolidated packages would be based upon the more detailed information in the initial packages, but the information would be recast or reinter-

preted in a broader frame of reference to focus on significant program alternatives or issues. The objectives may be redefined to reflect the higher level manager's program perspective.

This consolidation process may also be used to reduce what would otherwise be an excessive paperwork and review burden at higher levels. The agency head or his designee should determine at which review level(s) all or some of the packages will be consolidated into a lesser number of packages before submission to the next higher review level (see Exhibit 1). This consolidation should be based on natural groupings of subordinate decision units. Decision units in different budget subfunctions generally should not be consolidated. The consolidated package will summarize the more detailed information contained in the individual packages and identify the subordinate decision units covered.

In all instances a minimum level consolidated decision package will be prepared. This package may or may not include each of the minimum level packages from the decision package sets being consolidated. There will be instances when the preparation of a current level consolidated package is not feasible (e.g., when a decision package for a new program or activity is ranked higher than a current level package). When appropriate, there should also be a level or levels identified between the minimum and current levels.

(2) *Type of review.* The review can be conducted more effectively at each management level if the type of review is determined beforehand. This is especially important in the mid and higher levels in the agency, where the review workload may be significant, even with consolidation of packages. As a means of increasing the effectiveness of its review, higher level management may decide to limit its review of the higher-ranked packages to that necessary to provide a sound basis for ranking the packages and may choose to examine in more depth only the lower-ranked packages. The lower-ranked packages would be the first to be affected by an increase or decrease in the expected budgetary resources.

7. *Preparation of materials.* The following materials should be prepared for each decision unit.

a. *Decision unit overview.* The overview provides information necessary to evaluate and make decisions on each of the decision packages, without the need to repeat that information in each package. It should be at most two pages long, prepared in the format of Exhibit 2, and contain the following information:

(1) *Identifying information.* Include sufficient information to identify the decision unit, and the organizational and budgetary structure within which that decision unit is located. Each package should include the title of the appropriation or fund account that finances the decision unit, the account identification code (see OMB Circular No. A-11, section 21.3), and any internal agency code necessary.

(2) *Long-range goal.* When appropriate, identify the long-range goal of the decision unit. Goals should be directed toward general needs, to serve as the basis for determining the major objective(s) undertaken to work towards that goal.

(3) *Major objective(s).* Describe the major objectives of the decision unit, the requirements these objectives are intended to satisfy and the basic authorizing legislation. Major objectives normally are of a continuing nature or take relatively long periods to accomplish. Objectives should be measurable and should be those that program managers employ; they should form the basis for first determining and subsequently evaluating the accomplishments of programs or activities.

(4) *Alternatives.* Describe the feasible alternative ways to accomplish the major objectives. Identify which of the alternatives represents the method proposed for the budget year. Briefly explain how the approach selected contributes to satisfying the major objectives and the rationale for not pursuing other alternatives. This may include a discussion of organizational structure and delivery systems; longer-range cost factors; and when applicable, the unique aspects and need for the program that cannot be filled by State or local governments or the private sector (particularly for any enlarged or new proposed action).

(5) *Accomplishments.* Describe the progress of the decision unit toward meeting the major objectives. This section should include both quantitative and qualitative measures of results.

b. *Decision packages.* Each (consolidated) decision package should be no more than two pages long, be prepared in a format similar to Exhibit 3, and contain at least the following information:

(1) *Identifying information.* This information should include organizational identification (agency, bureau), appropriation or fund account title and identification number, specific identification of the decision unit, the package number, and the internal agency code.

(2) *Activity description.* Describe the work to be performed or services provided with the incremental resources specified in the package. This section should include a discussion and evaluation of significant accomplishments planned and the results of benefit/cost and other analyses and evaluations that will contribute to the justification of that level.

(3) *Resource requirements.* Include appropriate information, such as obligations, offsetting collection, budget authority or outlays, and employment (full-time permanent and total), for the past, current, and budget years for the upcoming budget. The increment associated with each package should be listed, along with the cumulative totals for each measure used in that package, plus all higher ranked packages for that decision unit. At an appropriate level in the process, budget authority and outlay amounts for the four years beyond the budget year should also be included, in accordance with criteria in OMB Circular No. A-11.

(4) *Short-term objective.* State the short-term objectives (usually achievable within one year), that will be accomplished and the benefits that will result with the increment specified and the cumulative resources shown in the package. The expected results of the work performed or services provided should be identified to the maximum extent possible through the use of quantitative measures.

(5) *Impact on major objective(s).* Describe the impact on the major objective(s) or goals of both the incremental and the cumulative resources shown in the package.

(6) *Other information.* Include other information that aids in evaluating the decision package. This should include:

Explanations of any legislation needed in connection with the package;

The impact or consequences of not approving the package;

For the minimum level package, the effects of zero-funding for the decision unit;

For packages below the current level, an explanation of what now is being accomplished that will not be accomplished at the lower level; and

The relationship of the decision unit to other decision units, including the coordination that is required.

c. *Ranking sheet.* Each review level will prepare a ranking sheet to submit to the next higher review level. This ranking sheet should generally contain the information shown in Exhibit 4 for the budget year.

In instances (e.g., revolving funds, where budget authority and net outlays are not a factor in reflecting the appropriate or priority level of performance, managers should use other measures (e.g., total obligations, employment).

8. *OMB review and consultation.* As an important element of initiating zero-base budgeting, agencies are required this year to submit for OMB and Presidential review their proposals for:

The program, activity, or organizational level to be the basis of the (consolidated) decision packages that will form the agency budget submission to OMB;

Current and/or budget year issues that should be highlighted through either particular decision packages or, when decision packages are not appropriate, through issue papers that ultimately tie in to one or several decision extensive evaluations.

Longer-range issues for which agencies will initiate extensive evaluations.

This identification of issues will play an integral role in OMB's spring review of agency programs, activities, and plans. Policy guidance letters to the agencies regarding the preparation of the fall budget submission will be based in part on this information.

OMB representatives will contact the agencies shortly and request these proposals.

9. *Inquiries.* Should additional discussion be necessary, agencies should contact their OMB budget examiner.

BERT LANCE,
Director.

EXHIBIT 1
BULLETIN NO. 77-9

DECISION PACKAGE RANKING AND CONSOLIDATION PROCESS ILLUSTRATED

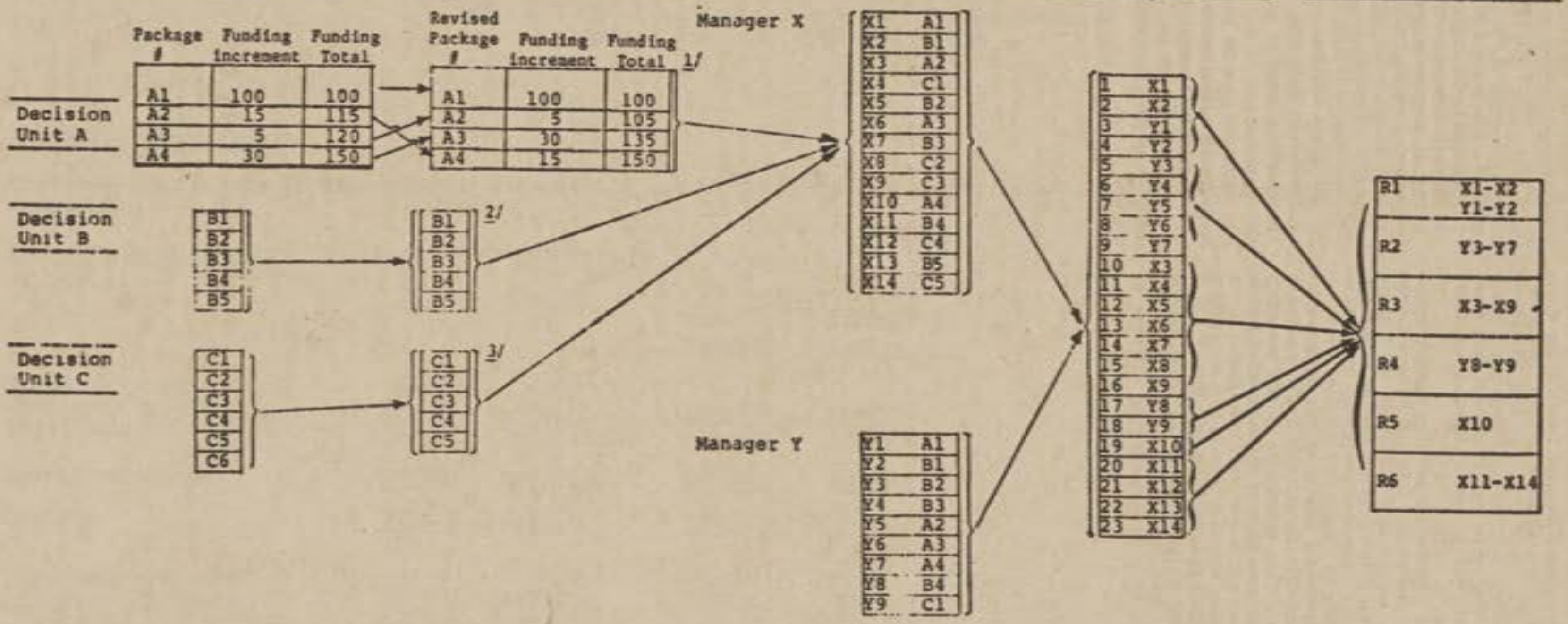
Managers A, B, and C each rank packages for their units and send to Manager X

Manager X receives packages and evaluates and ranks them within each unit

Manager X ranks packages for units A, B, and C against each other, and sends to Manager R

Manager R evaluates packages from Managers X and Y, and then ranks them against each other

Manager R prepares some consolidated decision packages before submitting budget request to next higher level



1/ Higher level manager reorders the proposed priorities of the subordinate decision unit managers. The packages may be revised by either the initial decision unit manager or the higher level manager.

2/ Higher level manager accepts proposed priorities of the subordinate manager.

3/ Higher level manager accepts proposed priorities of the subordinate manager, but chooses not to propose funding of lowest priority package.

Bulletin No. 77-9

Exhibit 2

DECISION UNIT OVERVIEW

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, MENTAL HEALTH ADMINISTRATION, FEDERAL SUPPORT OF COMMUNITY MENTAL HEALTH SERVICES, MENTAL HEALTH: 75-0001-0-1-550

Goal. To ensure needy citizens access to community based mental health services, regardless of ability to pay. Services should be of high quality, provided in the least restrictive environment, and in a manner assuring patients' rights and dignity.

Major objective. To assist in the establishment and operation of a nationwide network of 1,200 qualified community mental health centers (CMHCs) by 1984 to ensure availability and accessibility of services to residents of each mental health catchment area.

Current method of accomplishing the major objectives. Grants are made to public and nonprofit entities to plan and operate community mental health center programs. The planning grants are one-time grants, not to exceed $75,000 each. The operating grants are for eight-year periods with a declining Federal matching rate.

Alternatives. 1. Consolidate Federal funding for community mental health services and other categorical health service programs into a single formula grant to the States.

2. Consolidate Federal funding for community mental health services and other community-based inpatient and outpatient services—as well as institutionally based short-term acute and long-term care services—for the mentally ill and mentally retarded.

These alternatives are not being pursued because the States thus far have not been able to ensure that funds will be targeted into high priority areas. The Secretary believes the Federal Government must have the ability to control the funding.

3. Provide for mental health services coverage through the national health insurance proposal. This alternative is not presently viable because passage of the national health insurance act is not near. Intensive study is now being directed toward this alternative for possible consideration next year.

Accomplishments. Since the establishment of the CMHC program in the mid-1960's, 670 CMHC's have received Federal funding of nearly $2.0 billion. In 1977, nearly 600 centers were operational, covering 45 percent of the population (90 million people), and providing treatment services to 2 million individuals annually.

In 1977, 450 centers received Federal grant support and 100 centers completed the eight-year Federal grant cycle. To qualify for an operational grant, Pub. L. 100-63, requires centers to provide the following services on a 24 hour a day, seven day a week basis:

1. Inpatient hospitalization;
2. Outpatient treatment and counseling;
3. Partial hospitalization as an alternative to full-time hospitalization;
4. 24-hour emergency services by telephone or on a walk-in basis;
5. Consultation and education services.
6. Services to children;
7. Services to the elderly;
8. Screening services to the courts and other agencies;
9. Follow-up care for former full-time patients from a mental health facility;
10. Transitional services for same; and
11. Alcoholism and alcohol abuse program and drug addiction and abuse program.

Bulletin No. 77-9
Exhibit 3

Package 1 of 4 (minimum level)

DECISION PACKAGE

Department of Health, Education and Welfare
Mental Health Administration
Federal Support of Community Mental Health Services
Mental Health: 75-0001-0-1-550

Activity Description:

Continue grants only to the 450 CMHC's currently receiving Federal support, until each CMHC's eight-year grant cycle is completed.

Resource Requirements: Dollars (in thousands)

	1977	1978	1979	
			This Package	Cumulative Total
Planning grants ($)	1,000	1,000	0	0
Operating grants ($)	97,000	147,000	120,000	120,000
Total obligations	98,000	148,000	120,000	120,000
Budget authority	98,000	148,000	120,000	120,000
Outlays	97,000	145,000	119,000	119,000

Five-year estimates	1979	1980	1981	1982	1983
Budget authority	120,000	100,000	80,000	60,000	40,000
Outlays	119,000	98,000	79,000	59,000	40,000

Short-term objective:

To ensure in 1979 access to qualified comprehensive mental health services to 45% of the population (this results in treatment of about 2 million patients).

Impact on major objectives:

The major objective of 1200 qualified CMHC's by 1988 would not be met if this short term objective were continued. It is unlikely that any net increase in qualified CMHC's would result at this level because few communities have the resources to develop a qualified program. It is estimated that for each community that would develop a qualified CMHC, an existing qualified CMHC would cease to qualify because of cutbacks in service provided due to tight funds. The impact of continuing this level objective follows:

	1977	1978	1979	1980	1981	1982	1983	1984
Number of public and non-profit CMHC's	700	710	720	730	740	750	760	770
Number of CMHC's providing comprehensive services, as now defined	550	600	600	600	600	600	600	600
Number of CMHC's receiving grants	400	450	400	350	300	250	200	150
Percent of population covered	43	45	45	45	45	45	45	45
Percent of probable patients covered	45	50	50	50	50	50	50	50

Other Information:

Continuing grants to the 450 CMHC's currently receiving Federal support until each CMHC's eight-year cycle is completed is the minimum level because (a) the government has an eight-year contract with each CHMC, and (b) no new CMHC's will receive any grants. If zero-funded, the government would be subject to legal action brought by CMHC's.

This level would cease to encourage communities to develop CMHC's because of the (a) lack of planning grant funds and (b) lack of operational grant funds, thus negating the potential growth in the number of qualified CMHC's.

Only 57% of the high priority catchment areas would receive qualified CMHC coverage.

Package 2 of 4

Bulletin No. 77-9
Exhibit 3

DECISION PACKAGE
Department of Health, Education, and Welfare
Mental Health Administration
Federal Support of Community Mental Health Services
Mental Health: 75-0001-0-1-550

Activity Description

Continue grants to a total of 450 CMHC's each year. When a currently funded CMHC reaches the end of its eight-year cycle for eligibility, provide an eight-year grant to a newly qualified CMHC.

Resource Requirements: Dollars in thousands.

	1977	1978	1979	
			This Package	Cumulative Total
Planning grants ($)	1,000	1,000	0	0
Operating grants ($)	97,000	147,000	20,000	140,000
Total obligations	98,000	148,000	20,000	140,000
Budget authority	98,000	148,000	20,000	140,000
Outlays	97,000	145,000	19,000	138,000

Five year estimates	1979	1980	1981	1982	1983
Budget authority	140,000	142,000	143,000	145,000	146,000
Outlays	138,000	141,000	142,000	144,000	145,000

Short-term objective.

To ensure in 1979 access to qualified comprehensive mental health services to 49% of the population (this results in treatment of about 2.1 million patients).

Impact on major objectives.

Even without the planning grants, many communities will be encouraged to develop CMHCs because of the possibility of receiving the operating grants. However, the major objective would not be met at this level of funding. It would take until about 1990 to establish 1200 qualified CMHCs. The impact of continuing this level follows:

	1977	1978	This package	1979 cumulative	1980	1981	1982	1983	1984
Number of public and nonprofit CMHCs	700	710	40	750	800	850	900	950	1,000
Number of CMHCs providing comprehensive services, as now defined	550	600	50	650	700	750	800	850	900
Number of CMHCs receiving grants	400	450	50	450	450	450	450	450	450
Percent of population covered	43	45	4	49	58	65	75	80	85
Percent of probable patients covered	45	50	4	54	64	69	80	84	88

Other information.

By 1982, 70% of the high priority catchment areas will have a qualified CMHC. Assuming the objective of CMHCs is desirable even by 1990, stretching out the program past the major objective date of 1984 will increase total program costs from $3.6 billion to $4.3 billion due to estimated increases in service costs.

Bulletin No. 77-9
Exhibit 3

Package 3 of 4 (Current level)

DECISION PACKAGE
Department of Health, Eduction, and Welfare
Mental Health Administration
Federal Support of Community Mental Health Services
Mental Health: 75-0001-0-1-550

Activity Description:

Fund 50% more newly qualifying CMHC's. That is, for every two CMHC's whose eight-year eligibility period ends, fund three newly qualifying CMHC's.

Resource Requirements: (Dollars in thousands)

	1977	1978	1979	
			This Package	Cumulative Total
Planning grants ($)	1,000	1,000	0	0
Operating grants ($)	97,000	147,000	10,000	150,000
Total obligations	98,000	148,000	10,000	150,000
Budget authority	98,000	148,000	10,000	150,000
Outlays	97,000	145,000	10,000	148,000

Five year estimates	1979	1980	1981	1982	1983
Budget authority	150,000	162,000	172,000	183,000	194,000
Outlays	148,000	161,000	171,000	182,000	193,000

Short-term Objective:

To ensure in 1979 access to qualified comprehensive mental health services to 51% of the population (this results in treatement of about 2.2 million patients).

Impact on Major Objectives:

	1977	1978	this Pkg.	1979 Cum.	1980	1981	1982	1983	1984
Number of public and non-profit CMHC's	700	710	25	775	850	925	1,000	1,075	1,150
Number of CMHC's providing comprehensive services, as now defined	550	600	25	675	750	825	900	975	1,050
Number of CMHC's receiving grants	400	450	25	475	500	525	550	575	600
Percent of population covered	43	45	6	51	65	75	80	85	90
Percent of probable patients covered	45	50	6	56	66	77	83	87	90

Other information:

By 1982 95% of the high priority catchment areas will have a qualified CMHC. If stretched out from 1984 to 1986, total program costs for establishing 1200 CMHC's will increase from $3.6 billion to about $3.8 billion.

Package 4 of 4

Bulletin No. 77-9
Exhibit 3

DECISION PACKAGE

Department of Health, Education, and Welfare
Mental Health Administration
Federal Support of Community Mental Health Services
Mental Health: 75-0001-0-1-550

Activity Description:

For every CMHC whose eight year eligibility periods ends, fund two newly qualifying CMHC's.

Resource Requirements: Dollars in thousands

	1977	1978	1979 This Package	1979 Cumulative Total
Planning grants ($)	1,000	1,000	0	0
Operating grants ($)	97,000	147,000	10,000	160,000
Total obligations	98,000	148,000	10,000	160,000
Budget authority	98,000	148,000	10,000	160,000
Outlays	97,000	145,000	10,000	158,000

Five year estimates	1979	1980	1981	1982	1983
Budget authority	160,000	172,000	183,000	193,000	204,000
Outlays	158,000	170,000	182,000	192,000	203,000

Short-term Objectives

To ensure in 1979 access to qualified comprehensive mental health services to 53% of the population (this results in treatment of about 2.3 million patients).

Impact on Major Objectives

	1977	1978	this pkg.	1979 cum.	1980	1981	1982	1983	1984
Number of public and non-profit CMHC's	700	710	25	800	900	1,000	1,100	1,200	1,300
Number of CMHC;s providing comprehensive services, as now defined	550	600	25	700	800	900	1,000	1,100	1,200
Number of CMHC's receiving grants	400	450	25	500	550	600	650	700	750
Percent of population covered	43	45	2	53	75	80	84	93	100
Percent of probable patients covered	45	50	2	58	77	82	85	93	100

The major objective will be met at this level of funding.

Other Information

By 1982 100% of the high priority catchment areas will have a qualified CMHC. Total program cost by 1984 will be $3.6 billion.

BULLETIN NO. 77-9
EXHIBIT 4

RANKING SHEET

Department of Government
Fiscal year 1979

(Other identifying information)

Date: July 17, 1977

Rank	Decision Package	BA	Outlays	Cumulative BA	Cumulative Outlays
1	A1	924	901	924	901
2	B1	800	785	1,724	1,686
3	A2	121	121	1,845	1,807
4	C1	0	0	1,845	1,807
5	B2	30	30	1,875	1,837
6	A3	0	0	1,875	1,837
7	B3	30	30	1,905	1,867
8	C2	0	0	1,905	1,867
9	C3	0	0	1,905	1,867
10	A4	22	22	1,927	1,889
11	B4	11	11	1,938	1,900
12	C4	0	0	1,938	1,900
13	B5	30	30	1,968	1,930
14	C5	0	0	1,968	1,930
15	C6	0	0	1,968	1,930

ATTACHMENT BULLETIN NO. 77-9

THE WHITE HOUSE

WASHINGTON

FEBRUARY 14, 1977.

Memorandum for the Heads of Executive Departments and Agencies

During the campaign, I pledged that immediately after the inauguration I would issue an order establishing zero-base budgeting throughout the Federal Government. This pledge was made because of the success of the zero-base budget system adopted by the State of Georgia under my direction as Governor.

A zero-base budgeting system permits a detailed analysis and justification of budget requests by an evaluation of the importance of each operation performed.

An effective zero-base budgeting system will benefit the Federal Government in several ways. It will:

Focus the budget process on a comprehensive analysis of objectives and needs;

Combine planning and budgeting into a single process;

Cause managers to evaluate in detail the cost-effectiveness of their operations;

Expand management participation in planning and budgeting at all levels of the Federal Government.

The Director of the Office of Management and Budget will review the Federal budget process for the preparation, analysis, and justification of budget estimates and will revise those procedures to incorporate the appropriate techniques of the zero-base budgeting system. He will develop a plan for applying the zero-base budgeting concept to preparation, analysis, and justifications of the budget estimates of each department and agency of the Executive Branch.

I ask each of you to develop a zero-base system within your agency in accordance with instructions to be issued by the Office of Management and Budget. The Fiscal Year 1979 budget will be prepared using this system.

By working together under a zero-base budgeting system, we can reduce costs and make the Federal Government more efficient and effective.

Jimmy Carter

[FR Doc.77-12035 Filed 4-28-77;8:45 am]